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ABSTRACT

The primary purpose of the education article of the Pennsylvania constitution is to maintain and support substantive education as a state function by offering free and equal educational opportunities. This book interprets and evaluates the mandates of the article and explains the dual subsidy funding formula prescribed by the legislature. In order to effectively support fiscal neutrality at the state level, the paper recommends and then discusses full state funding. The educational opportunity rights of students are not founded on statutory funding, the paper says, but rather on constitutional mandate. It concludes that state permissiveness in allowing local policy to be at odds with state constitution mandates infringes on the freedom of less fortunate students. The book contains numerous visual aids to explain the print section.
(Author/LD)

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PENNSYLVANIA TAX COMMISSION

TESTIMONY ON THE DYNAMICS OF
SOME OF THE SIGNIFICANT INTERRELATIONSHIPS BETWEEN
THE FINANCIAL AND SUBSTANTIVE DELIVERY SYSTEMS FOR PROVIDING
EQUITABLE EQUAL EDUCATIONAL OPPORTUNITY

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Other achievements and honors include:

- 1974 - Member of the Pennsylvania Department of Education Committee for review of the proposed revision of the School Code
- 1974 to present - Member of the Pennsylvania Department of Education Law-Related Education Committee
- 1975 to present - Member of the Pennsylvania Bar Association Youth Education Committee
- 1976 - Council Rock's appointed representative to the Bi-Centennial Committee
- 1976 to present - Member of the Pennsylvania Department of Education Citizenship Education Committee
- 1978 to present - Member of the Pennsylvania Department of Education Committee on Global Education
- 1978 - Recommended by the Pennsylvania Secretary of Education to be the Department of Education's liaison to the MILRITE Committee
- 1979 - Honored by Pennsylvania Vocational Association for efforts in having \$200 million federal dollars restored to President Carter's budget for vocational education
- 1979 - Listed in this latest edition of "Who's Who in Eastern America"
- 1979 - Contribution to ERIC

INTRODUCTION

If education is the pulsating artery through which all learning and experience flows and the vehicle by which, according to potential, each member of every segment of the student body is helped to prepare for a self-fulfilling, self-rewarding adulthood, and for a productive contribution to society;

-and-

If common heritage is to produce the uncommon man to achieve from his industry uncommon emoluments for which society is the residual recipient;

-then-

equal educational opportunity like liberty and justice must not be for only those who can afford to pay for it; and must be dispensed, as is the law of the land, as one system of equity for the entirety of the Commonwealth and its beneficiaries.

The Education Article (Article III, Section 14) of the Pennsylvania Constitution provides that "The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth".

The Constitution's Education Article makes Public Education a State function. It vests the sole responsibility for providing the system's educational program within the original jurisdiction of the General Assembly. The unalterable duty imposed by the Education Article's purpose primarily is to protect the substantive rights of the students for statewide equitably equal educational opportunity. Taxpayers' rights are merely ancillary to and must support that primary purpose. The taxpayers duty to support does not provide the taxpayers with any rights or duties different from those possessed by any other taxpayers in general, and in particular, by the class of which they are members, and/or to the entity of which they are members. However, within those parameters, they are entitled to the same treatment and equal protection. If statutes authorizing tax levies and/or the method for funding education, when implemented, exceed the rights vested in the legislature to grant them, then such usage of that tax and/or method, including that which interferes with the statewide rights of students to receive an equitably equal educational opportunity, must end. Corollarily, levies upon some members of a class of taxpayers, whether or not resisted, which permit the use of their funds to provide either detriment or benefit to a segment of a class of beneficiaries who are entitled to equality of opportunity, is unreasonable interference and is without legal foundation.

For the purpose of addressing public education in Pennsylvania, aside from other legal protective remedies and safeguards available to all persons, the effect of the Education Article of the Constitution requires that the threshold of educational opportunity must be provided for at neither below nor above that quality which is set by the legislature within the statewide classifications it prescribes to serve the "... needs of the Commonwealth". The legislature may sit as its own board of education. If it did so, it would be compelled to provide without partiality a substantive educational program for the Education Article's beneficiaries whatever their situs in the Commonwealth. Since even the legislature cannot "spot zone", it must provide

for any of its mandates on a statewide classification basis. As legal rights can rise no higher than the authority which creates them, only those rights vested by the Constitution in the legislature, as principal, can be available for distribution to its administrative agents. Their rights in turn, either singularly and/or collectively, cannot exceed those vested in the principal. Any power used which exceeds or abuses the authority, limited and/or provided within those rights granted, has no legal vestment. The legislature, as principal, has no right to exceed its Constitutional mandates, and its agents (school districts), who are created by it and serve at its pleasure, have no legal basis for either exceeding their granted authority and/or that authority which is vested in their principal. There can be no local "tacking" privileges or suppressions of rights for statewide equal educational opportunity. Nor can there be any "scheme" designed to provide benefit or detriment to segments of the same classified taxpayers at the expense of the statewide students and/or respective districts' taxpayers who owe their duty to a state function. This principle is self evident no matter how the duty to administer and financially support is sliced.

Any taxes collected, whether by state agency or locally, for the purpose of administering to that duty must therefore be impartially distributed to and in accordance with the statewide classifications of students the legislature, in its wisdom, creates. Unfortunately, until the implementation of any unauthorized power to act is challenged and defeated, the effects of its mandates, be it by statute or as administered, are as if binding by rightful authorization. If the legislature, sitting as its own board of education, must provide statewide educational programming, then its agents, regardless of number and regardless of the jurisdiction they have been assigned to administer, must address to that same duty, not their self-determined threshold. If an agent levies and collects taxes for more than or less than the amount required to meet the state's threshold for its educational program, it is exceeding its authority

both as to its rights and duties. It is, after all, the legislature that must provide for and define "A" thorough and efficient system of education, not its administrative agents. Note also, the constitution mandates a system of education, not a system of school districts which are but mere administrative units.

Likewise, if the legislature sat as its own state board, all taxes collected would be appropriated to statewide classifications of students without partiality according to their legislatively determined needs, as the legislature address to ". . . . serve the needs of the Commonwealth".

The legislature has many options open to it for providing funding for public education. It may create separate state, regional, or local agents, or any combination of them, whose sole function is to levy and/or collect taxes and turn them over to other agents (state and/or school districts) for use in administering to the state educational program. By whatever means they are collected, they must be dispensed according to statewide classifications of student need.

Among others, the legislature has created two "dualisms" for providing for equitable equality of educational opportunity. One deals with a "shared funding partnership relationship" naming the state and local agents (school districts) as partners under a system called a dual subsidy funding "equalization" formula system. To the extent prescribed, the other "dualism" is created by the legislature merging in the same respective local agents the local authority it established to administer to the state's substantive educational delivery system and program with the local authority it established to levy local taxes.

Regardless, then, of how the legislature apportions its support duties for supporting public education among taxing authorities and taxpayers, the taxpayers wherever they reside owe their respective duties of support to the prescribed threshold of that state function. As local need must be

addressed and supported within statewide student classifications, expenditures from taxes collected by the state or otherwise for that purpose must not, to the extent applicable, provide partiality to local recipient segments of state classifications as protected under the substantive state function.

The concept of a "shared funding partnership relationship" and any other concept involving the state and/or local administrative units to fund the support and maintenance of the educational system are legislatively usable methods so long as their effects do not interfere with the legislature's duty mandated to it by the Education Article of the Constitution. That duty is to provide statewide equality of educational opportunity.

Because of the diversities and non-uniformities that present themselves among and between local school districts, including unequal wealth basis, general population, and student population, under these last mentioned concepts as programed, the use of the present dual subsidy funding "equalization" formula system to implement that shared funding relationship, particularly after state contributions are credited, is questionable for some of the following reasons:

1. Under it, if statewide equal educational opportunity is to be achieved, then the "local" taxpayers' tax load will vary from district to district depending on the number of students in each district;
2. Under it, if equal support costs to the "same local" taxpayers throughout the state is to be achieved, then support per student will vary district to district, financially causing statewide unequal educational opportunity within the same statewide classification of students;
3. The taxpayers already support a theoretical half of full state funding of public education through tax collections

by state agencies. Any "fiscal neutralization" of this "half" support wealth as processed within the state's dual subsidy funding "equalization" formula system, if any semblance of creditability for it exists, becomes "unneutralized" when the state's "formulated contribution" is distributed to local school districts and co-mingled with their respective local funds for support of students within their administrative jurisdictions. This result occurs because a funding formula for control of local school districts' support spending share, to produce statewide equality of educational opportunity, in each and every school district to meet their "half" funding responsibility is missing. It is possible, but highly improbable, that such a "local" formula together with the state's formula could be written to effectively provide fiscal neutrality of wealth for delivering statewide equality of educational opportunity in each and every district. The state's present subsidy formula, in effect, encourages rather than discourages higher local effort spending. However, whether or not such higher spending increases the quality of the statewide equality of educational opportunity and state educational program, a local school district is free to determine the amount of local effort it desires to raise by accepting either a "penalty" or "reward" from the state's subsidy formula contributions. This freedom, in effect, allows the local school district, by adjusting its tax levy, to vary the educational opportunity it offers compared to a constitutionally demanded state

threshold of equality of educational opportunity.

Such "local formula" if it could, would not only act as a "cap" on spending and to some extent on inflation, but also, more importantly, act as a "bar". That "bar" would control and regulate the process to provide for statewide equal educational opportunity. The tandem effect would provide to some extent a certain degree of "de facto fiscal neutralized" wealth;

4. If the legislature does not fully fund its "half" sharing responsibility, then since local school districts must pick up the difference, the discrepancies as they affect local school districts' funding costs grow disproportionately greater. Any additional burdens placed on the educational system during a school year, or the failure to fund state regulations adequately for a specific classification of students, cause a detriment to other classifications of students when funding for ongoing programs must be altered on a disproportionate basis to address the effects of those events;
5. As the number of days of instruction and/or the number of students within statewide classifications of students with their weighted differential of costs grow disproportionately among the local districts, the greater the variances will become in the inequities to both students' substantive education and the relative taxpayers' costs among and between the respective districts. Parenthetically, given the ruling in the recent Commonwealth Court case which apparently indicates that the state reimbursement is not tied to 180 days of education but is payable for the number

of actual days of instruction during the school year, if the decision would also be applicable for reimbursement for days of actual instruction for those days above 180 days, then in Armstrong vs. Kline type educational programming offerings appropriate state subsidy payments to the local districts would be in order. As the Armstrong vs. Kline case further paves the way for subsequent decisions to additionally address to the equity of the students' proven needs of any statewide classifications, instead of providing to a specific number of days of schooling per year for all students regardless of need, such offerings, regardless of subsidy payment authorization, will further vary the relative taxpayers' costs among and between the respective school districts;

6. Since, as a supposition, events could give rise to emergency evacuations of school district areas which evacuations could last for very substantial periods of time, "half" of the support for funding the school population's education as "non resident" students in other school districts, within or outside the state, could be effectively non existent as the "dual" support system relies on both state and "local" support. Under a full state funding system, the state's money would follow the students as a normal transaction;
7. Since separate but equal education is not equitably equal education, to the extent appropriate, implementation of court ordered busing beyond district lines to achieve

equitable equality of educational opportunity would best be served through use of a full state funding system. However, full state funding should go a long way to alleviate the need to bus;

8. Given the duty to provide a statewide system of education which required a statewide equality of educational opportunity, merely giving up ministerial local tax levying and collections, in order to "fiscally neutralize" wealth for use in providing funds to support the state system and program of education, does not equate to giving up monitoring the local administrative unit's responsibility to provide to a statewide threshold of quality education. School board directors are not only charged with such monitoring duties but they are, in fact, guardians of the appropriate rights of the students placed in their charge. Collaterally, regardless of who levies and collects the financial support, the proceeds must be dispersed evenhandedly across the state;
9. Regardless whether appraisers are state or county representatives, when real estate or other subjectively valued property is used for tax basing purposes, their use is highly suspect when equating them to real hard worth value at the market place in the ordinary course of business dealings and transactions or to similar hard-based values.
10. While the taxpayers support "half" of the tax bill at the state agency level, and the other "half" at their

assigned local level, under the state's dual subsidy funding "equalization" formula system, the "one formula" dual system process could either (A) theoretically cause them to support statewide equal educational opportunity for statewide classifications of students in each district but at a different local taxable wealth cost, the results of which are repugnant to the rights of classes of taxpayers owing their duty only to a state function, or (B) theoretically cause them to provide equal tax monies in each and every school district, the results of which cause, not a statewide equality of educational opportunity, but educational opportunities which will vary from district to district. More specifically, the results cause educational opportunity within the same statewide classifications of students to vary between districts. Actually, without heeding the admonishments of the Education Article, the present "formula" promotes and permissively authorizes school districts to provide local, non-statewide, equality of educational opportunity. This causes the local taxpayers to support their respective offerings at variations of costs to them, contrary to the rights of classes of taxpayers owing their duty only to a statewide function.

11. Factually, the subsidy formula is keyed off of subjective credit and/or debit value and ingredients. Some are taken from independent sources, such as from

"STEB". Others are developed it appears, by use of subjective judgment and evaluative processes within the developmental structure of the formula for achieving cosmetic desirable funding to the threshold of the state's educational program results. Aside from a district's desire to fund, and apart from the formula, but within its implementation process, a local district is, to some degree, able to determine in advance, upon receipt of notice of the proposed amount of its state reimbursement, whether it is to its benefit or detriment to produce more or less local effort in budgeting for the next year's educational program.

Therefore, unless all support monies are "fiscally neutralized" at the state level for distribution (thus removing any opportunity locally or otherwise, intentionally or unintentionally) to provide such funds which will affect the opportunity to address to a statewide equality of educational opportunity, no statewide equal educational opportunity can ever be realistically achieved. The only method that can effectively support such "fiscal neutralization" process of wealth for achieving statewide equality of educational opportunity is full state funding. "Fiscal Neutralization" of wealth at the state function level provides credibility for servicing to the rights of the statewide classified students and to the rights and duties of the state function taxpayers.

Given the assumption that the districts are exact duplicates of each other in every way, including wealth and population, except for the number of public school students, and further assuming in this most basic hypothetical presentment, that the students are all in the same "regular"

elementary classification for reimbursement purposes, the following formula working example attachment is merely to demonstrate, after differentials in state subsidy contribution adjustments have been properly credited to the local districts, that it costs the "local taxpayers more to educate "10,000 ± " students, vis a vis, in one district than "1,000 ± " students, vis a vis, in another. This example mathematically proves and is but one of multitudes of combinations to demonstrate the inequities that exist to both the students and the taxpayers at the respective local level under the state's dual subsidy funding "equalization" formula system. In addition to the variable financial support required to serve the equities of the needs of the general classifications of students (e.g. kindergarten, elementary, secondary), all other examples including the number of students, the variables of student classifications (e.g. regular, special education, gifted), and the propriety to address the appropriate substantive educational needs of the various local need segments (although not "reimbursably" identified as they should be) within these classifications of students (e.g. commercial, blue collar, academic, and "proven-special" need categories), will appropriately expand the effects of the variables. Actually, even if the state subsidy contribution of dollar amounts is exactly the same, because of the variable reimbursement factors applicable to the different reimbursable statewide classifications of students of school districts' makeups, including the variable number of students in each of the classifications, the financial support costs to the local districts manifestly differ as the combination of variables grow. This example also assumes that there is equal efficiency of economic and educational opportunity accountability. Any deviations within these assumptions further vary the results. Only those processing details necessary to convey, for the purposes

of this basic example, the results of the differentials of delivering education and costs as the local level are displayed.

It should be noted that the framework of the mathematical formula used in the construction of the subsidy contribution is itself subjective, with a fictitious base, that causes, in part an inverse mathematical progression. The subsidy further addresses itself, subjectively, to factors including density and sparsity, the results of which seem to create a more reasonable cosmetic effect. The burden upon the local taxpayer is inversely affected by the theory of the subsidy formula per se as well as its implementation.

Full state funding, not only "fiscally neutralizes" wealth, it establishes the foundation for accountability in public education at both the state and local levels including accountability for equitable equality of educational opportunity and process, and economics. It would establish the basis for controls over both the financial and educational delivery system at the state function level. More specifically it would, among other things, provide for the proper support of the state's program for the respective local districts' students in each statewide classification regardless of situs. Further, it would provide statewide addressment to local need within the state's general classifications of students. Therefore, in effect, it would regulate the quality of the statewide substantive educational threshold which the legislature prescribes to ". . . . serve the needs of the Commonwealth".

Still further, equal education "to a point", just like "separate but equal" education, is not equitably equal opportunity education. No matter to what extent or level the legislature prescribes as its quality of equality of educational opportunity, levies on taxpayers' funds, from whatever source derived, must support at that state function threshold. For tax levies to tap state function wealth, from either or both state or "locally"

/state "stockpiled" wealth, to provide either a superior or inferior educational opportunity for the respective benefit or detriment of some segments of the statewide student population is to effectively abrogate the declared purpose of the Education Article. That purpose is to provide free, common, and equitably equal educational opportunity. Any taxes, either collected directly by the state or "locally", must not be used to vary the content of the statewide educational opportunity. Any opportunity supplied to "a point", the "point" being that which is determined separately by each local agent, is not that which is required to meet the tests of a state mandated threshold. As an educational opportunity must be free and common as well as equitably equal throughout the Commonwealth, if one segment of a statewide student classification located within a local district would have to contribute tuition payments in addition to the supporting taxes of the district to match the quality of educational opportunity dispensed to other segments of the same student classification located in other school districts, then the educational opportunity is neither free, common, nor equal. Even if such students would contribute tuition to the local school district to which they are assigned by law to attend, acceptance of it would turn a public school district into, at best, a non-profit private corporation. It is not possible that what a government cannot authorize legally and publicly it can accomplish "privately" and/or permissively disregarding its duty. Such acceptance would be equivalent to governmental extortion as well as to a confiscation of private funds. The effect of which, in part, would also result in a violation of the equal protection of the law clauses as well as the mandates of the Education Article.

The terms "taxpayers" and "parents" are not mutually inclusive of each other, neither are they mutually exclusive of each other. Parents want and should have, wherever their children are assigned to school, a quality public

education at a statewide threshold provided to their children at taxpayers' expense. Taxpayers, whether or not they are parents, have or have not children of public school age, owe their duty of support to a state function. Establishment of education as a state function was created by the franchised voters of the Commonwealth. Some of the voters were parents as well as taxpayers. The Education Article, as the people's Will, mandates that the General Assembly shall provide for the maintenance and support of "A" system of public education. The taxpayers owe an impartial duty to support the state function system. If the state function taxpayers' taxes are used in such a way as to deprive or benefit some "local" segments of a class, a wrong is committed to students, parents, taxpayers and the state, respectively.

Parenthetically, non-voting taxpayers, such as non-residents of a district or business entities with taxable property within one or more districts, owe their duty only to the state function. Regardless of the amount they are taxed and/or the classification of which they are members, they are entitled to assurance that their property is being taxed to support only the object of the purpose of the threshold of the state function and not the object of the purpose of the threshold of local desire. The object of that purpose is to provide a statewide equality of education opportunity to ". . . . serve the needs of the Commonwealth".

The people could have proposed and voted for an Education Article that could have allowed for education to be a local function of government, but they did not. If they did, the equal protection clause of the Constitution would subject local public education only to its tests. The reason that public education is a state function is because the voters said they wanted it to be. Therefore, public education must meet the test of not just the equal protection clause, but those of the Education Article. The present Education Article locks the system into a state function not a local one. The peoples' collective Will, as expressed is to be served.

If public education is to be supported on the basis of local variances of wealth which permit wealthy districts to offer, at their discretion, a superior education to that of the Education Article's threshold, the quality of which is set by the legislature, then poorer districts' students are at a disadvantage. The state would be condoning partiality in dispensing educational opportunity. If the costs are too much to provide all state students with a quality equal educational opportunity, the Education Article does not allow the legislature to just provide those local districts that have richer legislatively designated depositories of Education Article support wealth "locally stockpiled" within their physical boundaries to provide "survival to the wealthiest" education to the students in those administrative jurisdictions at the expense of the others. If the Education Article allowed this, then it would be done at the expense of the other students assigned to school districts where the designated depositories were leaner and would provide for no better than a mediocre level of education. The effects of the present Education Article not only speak to the legal issues per se of the article's mandates but also to the social values of society in the way it proceeds to implement its pronouncements. In implementing the provisions of the Education Article, the legislature has ordered student compulsory attendance for education. It further established the school districts to which students are to be assigned and in which they are to be administered education. It is therefore, the legislature's responsibility to assure that all such compulsory assignments be fulfilled to provide equality of educational opportunity to the "captive" students.

It is not only to serve the interest of the individual that public education is mandated. The Commonwealth has its own sovereign interest to protect and safeguard. An educated population is resourceful and secures the future of the state's well-being and that of its members. This nation and

Commonwealth were built on foundations guaranteeing to the public, equal opportunity, not "edges". "Edges" are the results of individual industry as one competes. When government, by Constitution and law, has intervened to establish and regulate the opportunity and process upon which the competitive "edge" will be founded, it owes a duty to assure that its undertaking provides an equitably equal opportunity for all.

Parenthetically, regardless of the incidental benefits that are collaterally provided and served, the primary purpose of the Constitution's Education Article is to maintain and support substantive education as a state function by offering a statewide free, common, and equitably equal educational opportunity. Among the many things it is not to serve is funding education just for funding. Collecting taxes without an identifiable constitutional mandated purpose is no better than taxation without representation. Taxation for education must be levied only for programmed identifiable education ". . . . needs of the Commonwealth". Since education is a state function, the legislature cannot "spot zone". It must provide to statewide classifications of substantive educational needs.

If funding to classifications causes their purpose to become vague and meaningless, it is tantamount to slush funding. An observation into the state's education subsidy funding practices seems to indicate that the state's subsidy contribution funds to mere funding classifications, namely, grade levels, without addressing the substantive educational needs of the students. Neither the present nor residual substantive needs of the Commonwealth and its intended specific beneficiaries (students) respectively, are recognized by such a funding system.

Local school districts' demographics vary from district to district, the results of which cause each district to have local needs to be served to their appropriate variance. Each of these local needs to be served is to be found

as an identifiable occurrence to some degree, not only within, but between each and every school district of the Commonwealth. Their local needs, therefore beg, by necessity, to be classified on a statewide basis. As a matter of fact, local school districts, from time to time, are heard to express the request for legislative addressment to local need. To the extent appropriate, the use of the term "local need" as used herein, addresses to the educational program. As the substantive educational program as prescribed by the state, in fact, is directed to subject matter and course content, there is an implied admission that funds should be provided not just for funding, but for substantive educational purposes. Yet, what is not demonstratively acknowledged, is that not only the recognition that local educational needs in and between districts go unattended, but that these educational needs, when isolated, are found in all districts to a greater or lesser extent. They can be readily conformed to statewide classifications. Therefore, it is at this reference point of sufficient purpose to merely indicate that aside from IEPs, per se, which relate to the educational needs of students according to their respective capacities, IEPs must be addressed in inter-relationship with statewide local need classifications.

Specifically, the legislature funds to three categories of grade "funding" classifications, namely kindergarten, elementary, and secondary at funding WADMs of .5, 1, and 1.36 respectively. While there is recognition that the costs of support of these grade classifications differ, according to educational need, merely funding to these physical grade classifications rather than to the equities of the substantive educational needs as their specific needs demand, actual instructional expense funding allocations is inappropriate. Thus, except in part, for "exceptional" children, the state's subsidy contribution funds to chronological age not to educational need of students. This addresses funding to statewide age classifications rather than to

educational need classifications. More specifically, the equities of such substantive needs must be provided for within the aforementioned grade level "structural" classifications, and appropriate funding addressed to them. Each classification has a different support cost. As an example, in secondary education, such needs include, but are not limited to academic, commercial, blue collar, agriculture and special "proven" need classifications. Although much of the same subject and course matter is provided equally within each of these "local" need classifications, special needs of these classifications require programs where costs do vary. Parenthetically, it is obvious that such classification programming could pave the way to educational and economic accountability of the local school districts to and within the statewide system. As funding to these statewide local substantive need classifications is not being provided by the state, local school districts' taxpayers must support these educational needs at costs which further vary their respective duties to support public education as a state function. Yet, while the legislature must offer a statewide equitably equal substantive educational opportunity, it funds only to the educational need in one classification. That classification is for the "exceptional" child. Even that exception is a partial one, since the exceptional "student" substantive education classification is only excess cost funded by the state above appropriate funding classifications.

Local substantive educational needs are not isolated within a school district. Funding to them will serve, not the interests of just funding school districts who are mere administrative agents, but rather the equitable educational needs of the state's students assigned to their administrative jurisdiction. As the state's subsidy formula provisions do not recognize the differentials of educational need of aforementioned classifications, respective districts' "local"/state taxpayers' duties for supporting the

state functions are, in part, additionally varied. They are varied to the extent that the number of students enrolled in each such "local" need classification differ. The financial support needed to provide to these equitable substantive educational need classifications could, however, be appropriately addressed if full state funding was used.

Pennsylvania, therefore, has a financial support system for public education which, in very limited part, funds by "state formula" to "exceptional" child substantive educational needs, but otherwise funds to "no face" chronological age general funding classifications which do not address to the educational needs of the students.

Additionally, because there is no legislative definition defining a "thorough and efficient system of public education" and because a loophole exists in the dual subsidy funding "equalization" formula system's provisions, school districts are permissively able to provide to their own thresholds of educational desire. The loophole, possibly, although improbably, could be appropriately removed under a dual subsidy funding "equalization" formula system, 1. By designating "local"/state wealth wherever "stockpiled" as one indivisible depository. This, in effect, would create two state funding sources using different legislatively designated wealths, or 2. By placing a "cap" and "bar" on the use of the cache locally "stockpiled" in each school district as used in tandem with the state's side of the subsidy contribution formula. The loophole, in effect, turns local school districts from administrative agents of the legislature into independent middlemen between legislature and students. This permits them to dispense 505 self-determined variations of "private" public education. It causes disparity between the duties of respective districts' taxpayers who owe their duty to support constitutional education. This also affects the rights of students who are entitled to receive a state wide equitably equal educational opportunity. The loophole, as well as the system of funding that made its existence possible, would be removed by establishing a full state funding system.

Such system would create fiscal neutralization of wealth to fund the substantive educational delivery system as required by the Education Article. It would effectively take the "private" out of "private" public schools and return them to the status of dispensing statewide public education within the framework of the Constitution's public education system.

In summary, under the dual subsidy funding "equalization" formula system there is not a taxpayer in the Commonwealth of Pennsylvania that can tell if he/she is paying more than or less than his/her comparable responsible share of taxes toward the support of constitutional public education which is mandated as a state function and is solely under the control of the legislature.

Further, because of the faulty financial delivery system, including its formulation, implementation and effects, no student can be assured that he/she, as a member of a statewide classification, is receiving a statewide equitably equal educational opportunity regardless of where he/she goes to school.

Full state funding which "fiscally neutralizes" wealth at the state level must be used as the basis for providing statewide equitable equality of educational opportunity for statewide classification of students which will also address to statewide classification of local needs to ". . . serve the needs of the Commonwealth".

As a further point, it has been noted that public education in Pennsylvania is a state function. Taxpayers whether they pay taxes to support education at the state and/or local level are state function paying taxpayers. School districts are mere administrative units of the legislature. The legislature has provided them with authority to levy taxes to the extent necessary to meet the needs of providing to the states' threshold of equitably equal educational opportunity. The authority for school districts to tax has been limited by the legislature at its discretion, to only levying upon certain prescribed usable wealths. Since the legislature, unless it is prohibited by the Constitution or it abuses its authority, is not limited to what wealth it may designate, levy upon, and use as a basis for support of its duties for itself or by its agents acting on its behalf. Whatever it prescribes, however, must match both in substance and amount to the duties mandated to it.

When the legislature prescribes to its duty to support public education as a state function, the wealth it has made available to itself and/or its agents for its support is state function wealth. Corollarily, regardless of the designated location of the depository where the taxpayer must pay his/her share of support, he/she is a constitutionally mandated state function duty owing taxpayer. Education is not a local function. If the taxpayer is statutorily authorized and directed to pay his/her taxes to a local administrative agency (school district), he/she is a "local"/state taxpayer. He/she is not a local taxpayer owing his/her sole responsibility to a local government which taxes him/her as a member of that local unit of government. The wealth authorized to be levied upon and taxed for support of the state function includes that which is centrally and/or locally "stockpiled". The physical location of the "stockpiled" wealth, by classification or otherwise, is immaterial.

The state may levy upon any portion of said wealth, no matter where it is located or "stockpiled" to the extent necessary to support its duty to provide to the purpose of the state function. When the legislature authorizes its agents to levy upon the classes of wealth it has designated for use by them to address to the legislature's duty to provide to the state function, the agents, be they state and/or "local" draw upon available wealth as state function wealth. A "local"/state agent may draw upon such wealth ("assets") only to the amount needed to meet the threshold of the legislature's responsibilities, not to the extent of its self-determined local desires and/or threshold. Some of the state's designated classifications of usable wealth are irregularly "stockpiled" to a greater or lesser extent in one physical "local" branch location of the state than in another. However, a school district in whose physical territory a greater amount of state function wealth is locally "stockpiled", may not, to the detriment of the statewide

student, withdraw from such "local"/state depository upon its own voucher, assets, the amount of which would exceed that needed to address to the state's statewide threshold established to provide educational opportunity. In the same vein, neither may a school district by withdrawing from such depository such excessive funds effect the balances between the taxpayers of the other local districts since all taxpayers owe their duty to the state function. Any such excessive withdrawals automatically effect the duties and rights of the state taxpayers as a whole. Such taking is a wrongful exercise of its authority. The designated recipients for the use of that "stockpiled" wealth, to the extent of their pro rata share, are members of state function respective classifications of students. Segments of local students, as members of such state function classifications, are not to share to a greater or lesser extent in the use of the state function reservoir of the legislatively available designated state function ("local"/state) wealth merely because of the size of the "stockpiled" assets which are physically nearest to them.

The legislature is duty bound to regulate and control the use by local school districts of locally "stockpiled" wealth and to alleviate any imbalances. In fact, the wealth centrally and/or wherever locally "stockpiled" throughout the state, is held "in trust" for the incommon use of the beneficiaries designated within the Constitution's Education Article and not for the benefit or detriment of some segments of the whole and/or those nearest to one of the "local"/state depositories.

A careful search through the wording of the Education Article will produce not a shread of evidence to provide an advocative position that the beneficiaries, created by the mandates of the Education Article, are entitled to receive an educational opportunity based upon the wealth and desires of the local school districts to which they are assigned by the legislature. The Education Article, the people's Will, enunciates that the beneficiaries are the people's children and hence, the "children of the General Assembly". They have the right to receive an impartial educational opportunity, neither inferior or superior, to the state's established threshold for a free, common, and equitably equal educational opportunity without regard to their geographical location.

In order to provide a statewide equitably equal educational opportunity, if the legislature, from a logistical standpoint, finds it impractical to have a "migratory" student body policy which would enable its members to freely select and attend the best public educational program offered at certain locations in the state, then shouldn't the state take the equivalent offering to the "captured" students wherever they are "impounded"? Common sense and logic make it clear that if it is not feasible to take statewide "transitory" students to the product, then the product, being the state educational program addressed to statewide classifications of "local"/state educational needs, must be delivered to the "immobilized" statewide students assigned to local administrative jurisdictions.

The Education Article demands stability for statewide educational opportunity. Local "prejudices" of view which establish local independent educational opportunity thresholds under the guise of concern for the sufficiency of schooling required for "local" children are at most transitory. Under an Education Article which mandates statewide free, common, and equitably equal educational opportunity, such local transient "prejudices",

whether directed locally by majority, or by forceful minority special interests, are alien to its designed values and intent.

State permissiveness in allowing locally declared and practiced policy to be at other than the state's Constitutional mandated threshold, infringes upon the freedom of the less fortunate students. In part, such infringement for the less fortunate students includes the permissive deprivation of their abridged students' rights to a statewide free, common, and equitably equal educational opportunity. This practice also assures that their provided "kit" holds less than that which is permitted elsewhere. This causes present and future competitive participation to be unattainable.

One of the intents of the Education Article is to prevent arbitrary addressment to statewide educational need, by preventing ambulatory population movements from transiently and transitorily effecting local desire different from the state's people's Will. This however, is apart from local district concerns which address to "local"/state classifications of need. Further, the statutory permissive funding practices promote management by selective objectives amounting to "de jure" segregation, rather than statewide equal educational opportunity.

Everyone must live within the available economy, even school districts. However, the Education Article does not set the quality of the substantive educational delivery system to be at the economic discretion of each respective local school district. It does not address to economy as an appendage ". . . to serve the needs of the Commonwealth" with the words "subject to the desires and availability of funds/wealth of the local school districts"; rather by expressed implication, it sets the level of financial support wholly within the phrase ". . . to serve the needs of the Commonwealth". Those prescriptive words are addressed to the General Assembly, not local school districts.

The state and/or its representatives must not use any means which causes a sharp and direct infringement on the opportunity to enjoy freedoms established and protected by the First Amendment to either all and/or any applicable segment of its people. To passively allow or act in any such manner, either innocently or selectively, would permit the state to establish degrees of privilege or disadvantage.

While a state need not engage in offering public education, when it does a responsibility is created to perform only in accordance with that obligation. In Pennsylvania, that obligation is created by the Will of the people as a Constitutional mandate, the terms of which mandate statewide free, common, and equitably equal educational opportunity.

Specifically then, does such state permissively authorized funding practice, which establishes "de jure" segregation, additionally violate First Amendment rights? Does not such allowance create the platform for a type of class system and ideological censorship? Does not that system and censorship occur when local educational philosophy and practice establishes to what amounts to a ban on educational offerings through local independent economic discretionary funding decisions resulting in the establishment of "private" public schools, rather than funding to a state threshold? Do not these limits and/or deviations from the state's substantive educational opportunity threshold deprive less fortunate students of the opportunity of freedom of expression? If educational institutions are the forums for learning and freedom of expression, is not this freedom of expression inequitably starved and abridged since the failure to equally fund some segments of the state's students invites the opportunity for the exclusion of ideas, theories, philosophies, and learning laboratory exercises made available to the more fortunate students? Further, is not official indoctrination by means of suppressing opposing views forbidden by the First Amendment? Is not such

practice of sufficient scope to include the suppression of opportunities to learn? Does the use of the state's funding system act as the official instrument for activating First Amendment suppression? Still further, may the state permit wealthy districts to provide superior public educational opportunity to the prejudice of others under the proposition that such allowance is at least beneficial to the welfare of the students able to benefit from the application of such local wealth?

If the public is entitled to every person's views and to be informed, and everyone is entitled to his beliefs, is not freedom to engage in association for advancement of beliefs and ideas an inseparable aspect of freedom of speech and expression?

The First Amendment merely enunciates the freedoms set forth therein "as effects" to be protected. In reality, the Amendment by express implication, contains and protects the substantive and process values which underlay the purposes for the First Amendment freedoms. In part, a purpose and reason upon which the Amendment's existence is predicated is that the addressed freedoms are imperative to safeguard, not only the freedoms of the individual, but also to secure the well-being of a free society. This latter purpose and reason contains the premise that fostering the free exchange of principles enumerated in the First Amendment, promotes benefits for their society. This contains freedom of expression.

While the concern for freedoms remain unshakably stable, the "ambulatory realm" they secure expands as society becomes more affluent. First Amendment rights of a Constitutional republic/democracy by implication must safeguard both the rights of the individual and society. New situations contain values that must be tested, and equitably weighed and balanced for the first time against the values and premises of the rights protected by the First Amendment. It is not that the rights granted within the First Amendment are evolutionary

in nature, but whether, upon exploring the meaning of these rights within a given time frame, on an issue by issue basis, the values of each new situation proposed for safeguarding, can be found and matched within the First Amendment's "inventory" of meaning and purpose to be protected. Depending on the issue, the First Amendment protects both the transmittal conduit as the delivery system as well as the substance and content thereof. Broadly, freedom of expression, in part, includes the dissemination and sharing of ideas and interests that are of value and which serve at least some beneficial need of society. Freedom of expression contains not only the freedom and need to disseminate, but the freedom and need to learn. The higher the quality of the learning, education and knowledge, the higher the quality of the expression. While "nourishment" of the recipient is included within the protection of the purpose of the First Amendment including the need of society to be informed, it cannot be extracted from an empty shell. Thus, the sharing of knowledge and information must include dispensers as well as recipients. The more learned is the dispenser of information, the greater is the opportunity for the recipient public and/or its members to be enriched and nourished. Since learning and education are the exercises and laboratories for achieving knowledge and information, and thus an integral part thereof, is not any action or inaction by government to vary the opportunity for learning and education by creating disadvantages to some segments of the statewide student body, a sharp and direct infringement on the very heart of the tenets of First Amendment rights particularly when the legislature is charged by Constitutional mandate to provide education as a state function? Do not First Amendment protections test the ingredients of the content, as well as its wrappings of the issue to be examined? More specifically, is not any statutory funding method which, when implemented, interferes with the Constitutional right to receive a statewide equal educational opportunity

that is to be provided by the legislature as a state function of government, the interference of which is caused by the fact that it, instead of "fiscally neutralizing" wealth, permissively authorizes and permits disadvantage to the quality of the learning and educational opportunities and processes of some segments of the statewide student body, a sharp and direct infringement of First Amendment freedoms? Are both the rights of the disadvantaged students and the rights of their society retarded to the extent protected by the First Amendment by virtue of the governmental action? Is not such value to be found in First Amendment's "inventory" of meaning and purpose for protection of the individual's freedoms and which, at the same time, promotes and elevates the quality of exchanges of expression between members of a more literate public? As movement toward a more technological age excelerates, the luxury of disadvantaging others through funding methods and practices for learning and educational opportunities, provided by public educational institutions, is growing proportionately "expensive" to society and at a cost, not just monetarily, it can ill afford to pay. Will an examination of the "inventory" produce the safeguards for which the search is made? Are the infringements sharp enough, are they direct enough to provoke and pierce the veil of the First Amendment guarantees? Only time can tell.

More specifically, can a state once charged with the responsibility of providing statewide public education as a state function of government by Constitutional mandate, deprive segments of the student population of the "building blocks" in the educational and learning process by allowing wealth of a local school district to be used to determine the quality of education dispensed and received? Is not such a usage an effective infringement upon one's ability to ably advance beliefs and ideas, for are not beliefs and ideas founded and fully exposed only through the process of learning and education? Is not discussion, particularly of literate quality, essential to free government? While taxation per se is itself not an infringement

upon freedom of expression, is not its implementation such when its effects in support of a Constitutional mandated state function of government, namely public education, cause the loss of such rights to freedom as guaranteed by the mandate?

While local school districts must address to "local"/state needs within statewide classifications of students, local educational philosophies and practices, while open to variations of orchestration, nevertheless, must conform to the parameters set by the mandates of the Education Article. However, does not the state patently contribute to their abuses when it fails to define ". . . a thorough and efficient system of public education. . . " and fails to establish a funding system which "fiscally neutralizes" wealth to serve the statewide educational needs of the Commonwealth in accordance with statewide "local"/state classifications of educational needs? In part, is this contribution not tantamount to causing a sharp and direct infringement of First Amendment rights? For is it not the effect, rather than the method, that tests whether the cause is a sharp and direct infringement of First Amendment rights?

School districts cannot exist without legislative authorization. When created, they, as administrative units, must be in supportive measure to the legislature's responsibilities, not their own. The legislature assigns students for substantive educational need servicing to consigned locations, namely, local school districts. Thus, students are "captives" of legislative placement procedures. Whereupon the process, in part, then disguises under provisions of a funding statute, a veneered concept which pays lip service to equal educational opportunity. However, when the statute is implemented together with the legislature's student location assignment practices, the results effect "de jure" segregation. That "de jure" segregation pivots at point of impact not upon whether public school students are entitled to

receive a statewide equitably equal educational opportunity, but upon what is the desired funding support level for education of the district to which the state student is assigned. The latter is achieved by a funding statute which permissively authorizes such "opportunity".

This opportunity, however, is the antithesis of the "opportunity" vested in the statewide student by the Education Article of the Constitution. That "opportunity", which is equated to the right to a free, common, and equitably equal educational opportunity is shared and owned by the beneficiaries thereof on a statewide basis. The educational opportunity rights of students are not founded and predicated upon STATUTORY funding desires, practices, and loopholes, but rather upon CONSTITUTIONAL MANDATE. While the education mandate collaterally compels addressment to funding, it has as its primary objective and purpose, the duty to provide "a" system of statewide substantive public education. Aside from the residual repressive and retarding effect on the well-being of the State in its sovereign capacity, any "opportunity" by statutory edict, other than that which provides for a statewide equal educational opportunity, "condemns" the less fortunate students to their future.

THE COMPARISON OF LOCAL SUPPORT IN THREE SCHOOL DISTRICTS
POSSESSING THE SAME WEALTH AND POPULATION BUT WITH DIFFERENT
STUDENT POPULATION. THE SAMPLE LIMITS THE STUDY TO THE ELEMENTARY
STUDENT CLASSIFICATION GIVING FULL CREDIT TO THE STATE'S CONTRIBUTION.

BASE FACTS FOR COMPUTATIONS:

STATEWIDE MARKET VALUE PER WEIGHTED AVE. DAILY MEMBER (SMV/WADM) = \$32,750
STATEWIDE PERSON INCOME PER WEIGHTED AVE. DAILY MEMBER (SWPI/WADM) = \$22,447
ACTUAL INSTRUCTIONAL EXPENSE PER WEIGHTED AVE. DAILY MEMBER (AIE/WADM) = \$1,500
MARKET VALUE/PERSONAL INCOME AID RATIO (MV/PI AR)
MARKET VALUE AID RATIO (MV AR)
PERSON INCOME AID RATIO (PI AR)

DISTRICT MARKET VALUE (DMV) = \$400,669,900
DISTRICT PERSONAL INCOME (DPI) = \$212,563,119
STATEWIDE MARKET VALUE (SW MV) = \$79,302,866,770
STATEWIDE PERSONAL INCOME (SW PI) = \$54,355,099,043
AID RATIO (AR)

	SCHOOL DISTRICT "A"	SCHOOL DISTRICT "B"	SCHOOL DISTRICT "C"
WEIGHTED AVE. DAILY MEMBER (WADM)	7000	14000	21000
MV AR = 1- $\frac{DMV/WADM}{SMV/WADM} \times .5$	MV AR = 1- $\frac{400,669,900 \div 7000}{32,750} \times .5$ MV AR = .1262	MV AR = 1- $\frac{400,669,900 \div 14000}{32,750} \times .5$ MV AR = .5631	MV AR = 1- $\frac{400,669,900 \div 21000}{32,750} \times .5$ MV AR = .7088
PI AR = 1- $\frac{DPI/WADM}{SWPI/WADM} \times .5$	PI AR = 1- $\frac{212,563,119 \div 7000}{22,447} \times .5$ PI AR = .3236	PI AR = 1- $\frac{212,563,119 \div 14000}{22,447} \times .5$ PI AR = .6619	PI AR = 1- $\frac{212,563,119 \div 21000}{22,447} \times .5$ PI AR = .7746
MV/PI AID RATIO = 60% MV AR +40% PI AR	MV/PI AR = (.6)(.1262) + (.4)(.3236) MV/PI AR = .2051	MV/PI AR = (.6)(.5631) + (.4)(.6619) MV/PI AR = .6025	MV/PI AR = (.6)(.7088) + (.4)(.7746) MV/PI AR = .7350

* BASE EARNED FOR REIMBURSEMENT (BER)	1035 (ASSUMED MINIMUM)	1175 (ASSUMED)	1235 (ASSUMED MAXIMUM)
SUBSIDY PAY = (MV/PI AR)(BER)(WADM) ASSUME NO CAP (100% FUNDING)	$(.2051)(1035)(7000) = \$1,485,956.00$	$(.6025)(1175)(14000) = \$9,911,125.00$	$(.7350)(1235)(21000) = \$19,062,225.00$
COST OF INSTRUCTION (AIE/WADM)(WADM) ASSUME AIE/WADM = \$1,500	$(1500)(7000) = \$10,500,000$	$(1500)(14000) = \$21,000,000$	$(1500)(21000) = \$31,500,000$
FUNDS NEEDED FROM LOCAL SOURCES TO SUPPORT THE EDUCATIONAL PROGRAM ACTUAL INSTR. EXP. (AIE) SUBSIDY PAYMENT	$\$10,500,000 - 1,485,950 =$ $\$9,014,050.00$	$\$21,000,000 - 9,911,125 =$ $\$11,088,875.00$	$\$31,500,000 - 19,062,225 =$ $\$12,437,775.00$

SCHOOL DISTRICT "B" WILL REQUIRE 23% MORE FUNDS FROM THE LOCAL TAXPAYER TO SUPPORT THE SAME LEVEL OF EDUCATION AS SCHOOL DISTRICT "A", WHILE SCHOOL DISTRICT "C" WILL REQUIRE 38% MORE FUNDS THAN SCHOOL DISTRICT "A".

* Each school district is paid on the "Base Earned for Reimbursement" (BER), or the median actual instructional expense per weighted daily membership, whichever is less. The maximum BER for 1979-80 is 1235. The local tax effort measured in equalized mills determines each district's level of reimbursement.

School District "A" is assumed to provide the lowest local effort of these school districts in this sample, however, it is assumed that district "A" will receive the minimum BER; School District "C" will receive the maximum BER because it is assumed that it provides the maximum local effort.

This example provides full benefit/credit to each school district in order that the districts used in this sample have not been penalized in accordance with the flow of the calculations for the base subsidy.

SCHOOL DISTRICT "D"

70,000 WADM

$$\text{MV AR} = 1 - \frac{400,669,900 \div 70000}{32,750} \times 5$$

$$\star \text{ MV AR} = .9127$$

$$\text{PI AR} = 1 - \frac{212,563,119 \div 70000}{22,447} \times 5$$

$$\star \text{ PI AR} = .9324$$

$$\star\star \text{ MV/PI AR} = (.6)(.9127) + (.4)(.9324) = .9205$$

$$\text{SUBSIDY PAYMENT} = (.9205)(1235)(70000) = \$79,577,225$$

$$\text{AIE} = (1500)(70000) = \$105,000,000$$

$$\text{FUNDS NEEDED FROM LOCAL SOURCES} = \$25,422,775$$

182% MORE FUNDS NEEDED FOR THIS SCHOOL THAN
FOR SCHOOL DISTRICT "A" TO PROVIDE THE SAME
EQUAL (EDUCATIONAL) OPPORTUNITY.

SCHOOL DISTRICT "E"

1,000 WADM

$$\text{MV AR} = 1 - \frac{400,669,900 \div 1000}{32,750} \times 5$$

$$\star \text{ MV AR} = -5.1170$$

$$\text{PI AR} = 1 - \frac{212,563,119 \div 1000}{22,447} \times 5$$

$$\star \text{ PI AR} = -3.7347$$

$$\star\star \text{ MV/PI AR} = (.6)(-5.1170) + (.4)(-3.7347) = -4.5640$$

$$\text{SUBSIDY PAYMENT} = (-4.5640)(1035)(1000) = -\$4,723,740$$

$$\text{AIE} = (1500)(1000) = \$1,500,000$$

$$\text{FUNDS NEEDED FROM LOCAL SOURCES} = \$6,223,740$$

31% LESS FUNDS NEEDED FOR THIS SCHOOL THAN
FOR SCHOOL DISTRICT "A" TO PROVIDE THE SAME
EQUAL (EDUCATIONAL) OPPORTUNITY.

SUBSIDY PAYMENTS MADE PRIOR TO ACT 59

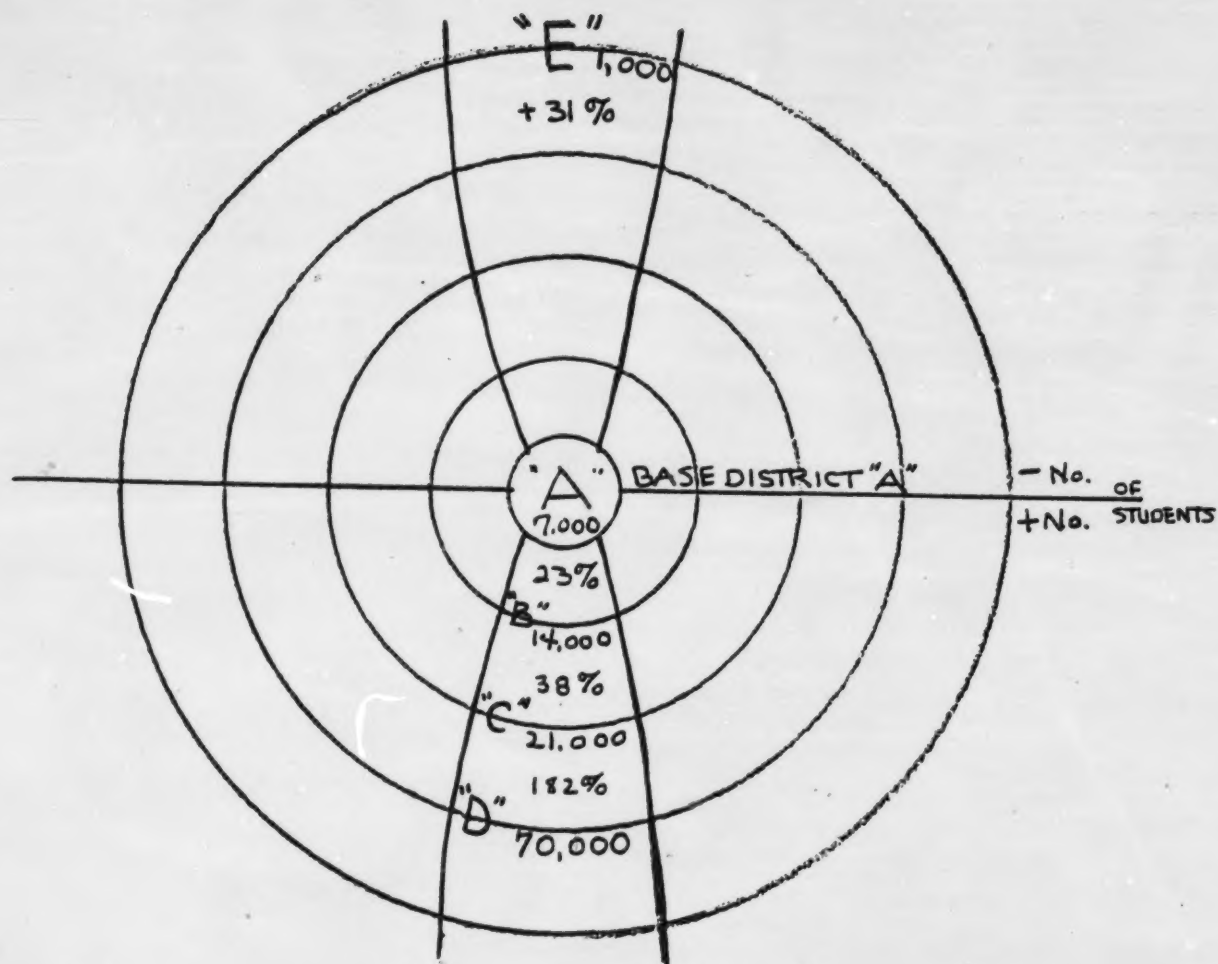
Subsidy Payment = MV AR x 750* x WADM

SCHOOL DISTRICT	CALCULATION BASED UPON FORMULA	SUBSIDY PAYMENT	AIE (1500) (WADM)	LOCAL EFFORT	INC. EFFORT OVER DIST. 'A'
A	(.1262) (750) (7000)	662,550	10,500,000	9,837,450	--
B	(.5631) (750) (14000)	5,912,550	21,000,000	15,087,450	53%
C	(.7088) (750) (21000)	11,163,600	31,500,000	20,336,400	106%
D	(.9127) (750) (70000)	47,916,750	105,000,000	57,083,250	380%

* - STATUTORY "BER"

Fig. 1.

Re: The Comparison of Local
Support Table



This Final Segment Extract Demonstrates
The Data As Set Forth In The Table.

Fig. 2

Re: THE COMPARISON OF LOCAL SUPPORT TABLE

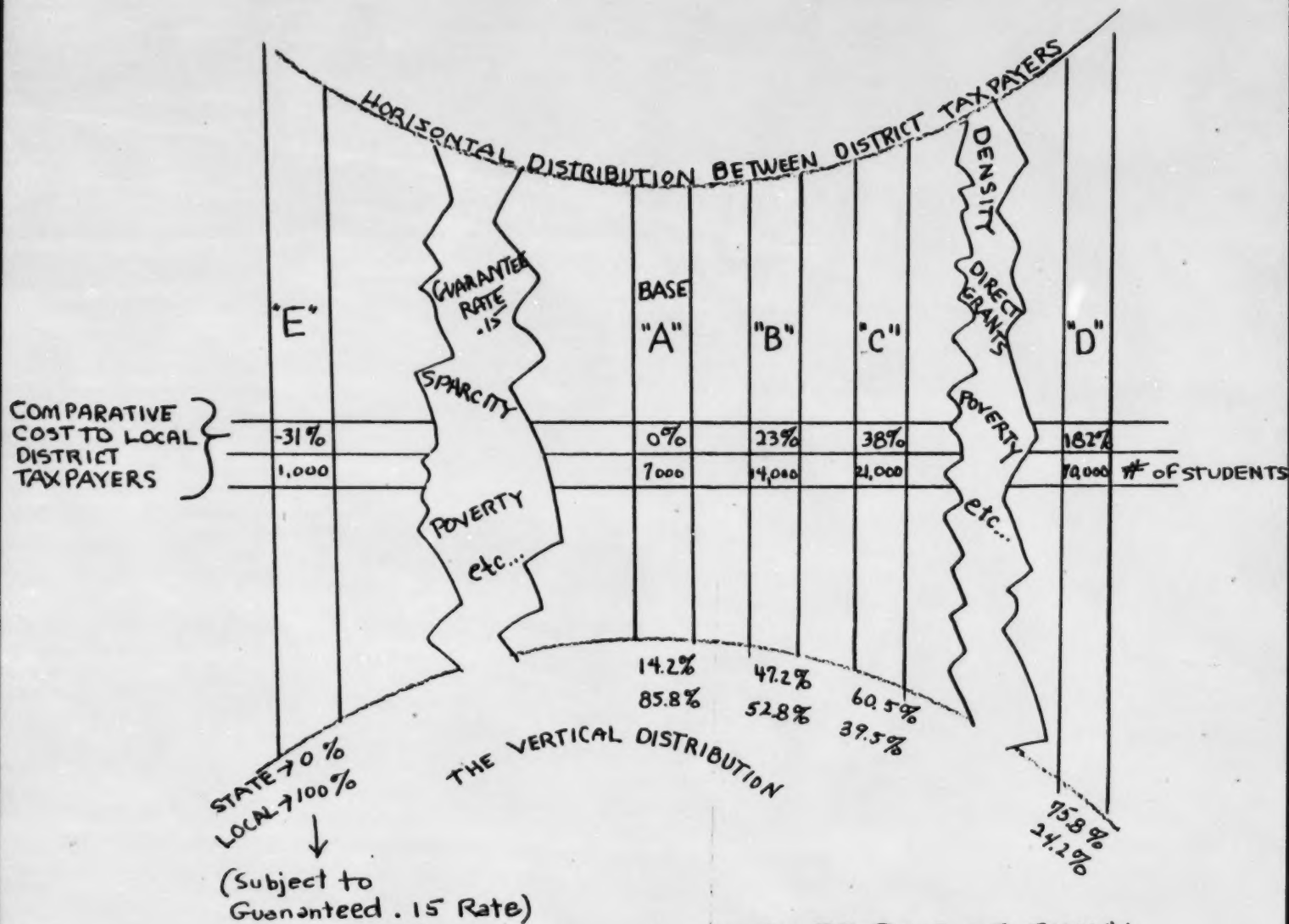
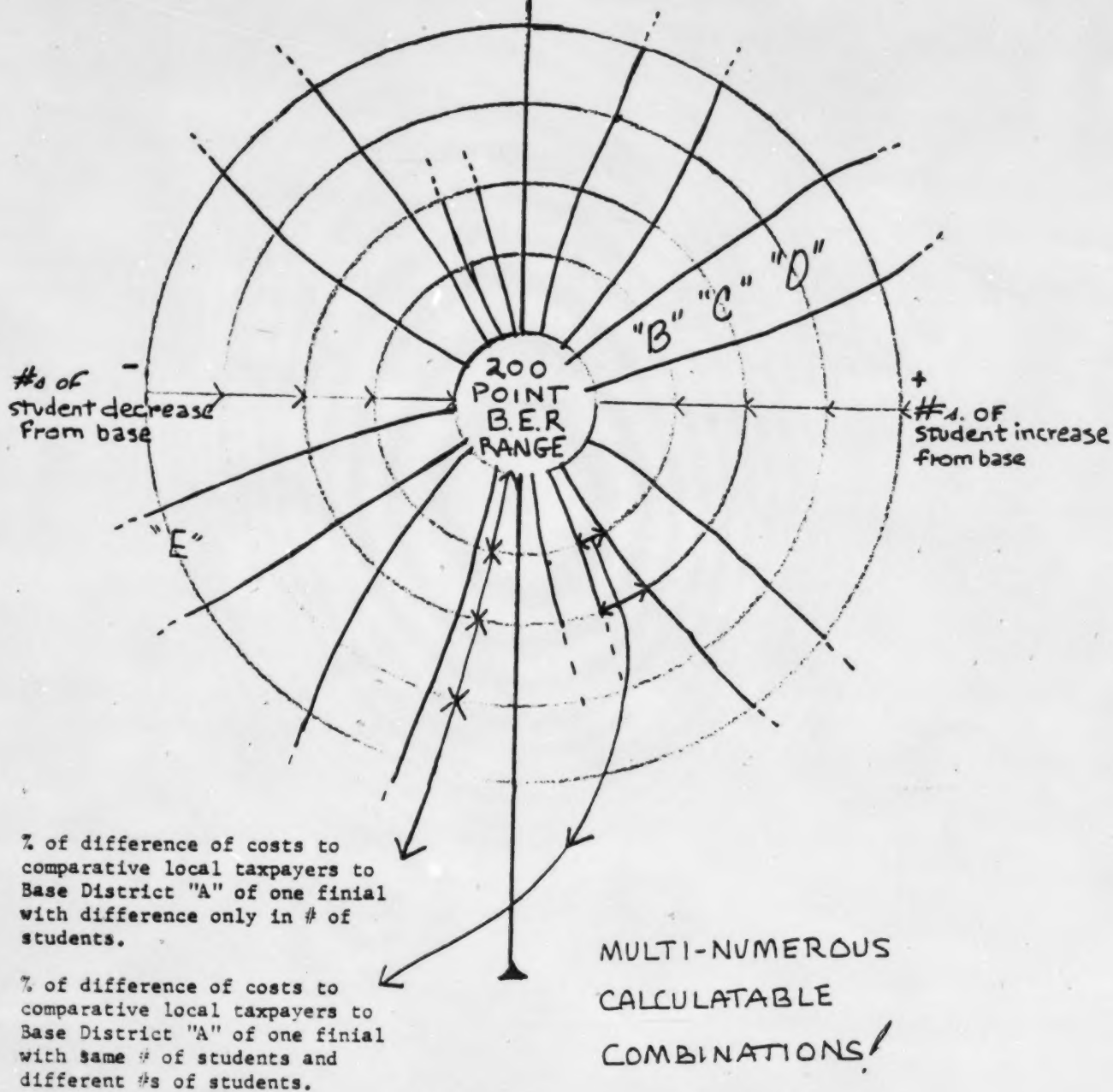
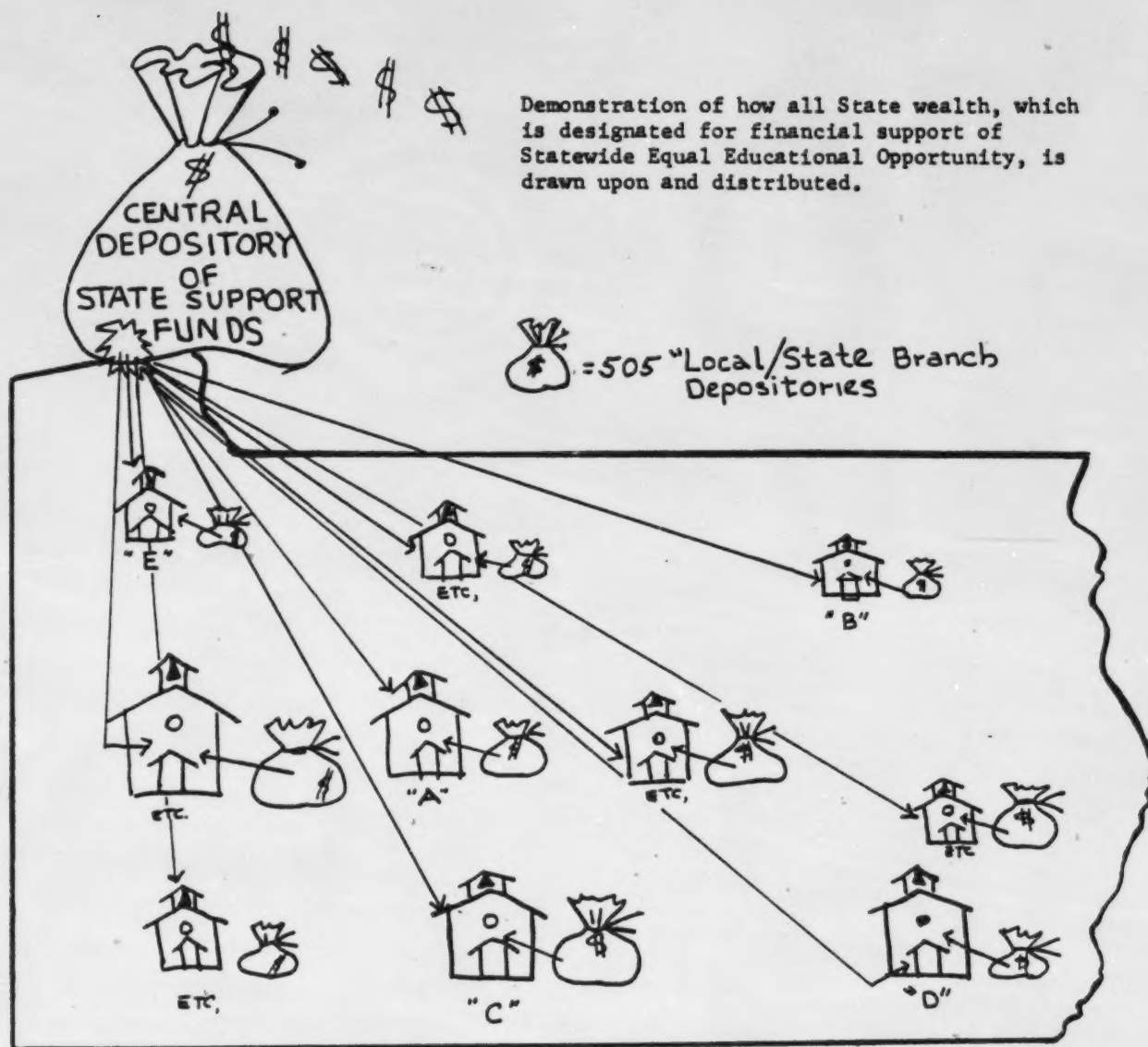


Fig. 3

BASE DISTRICT "A"

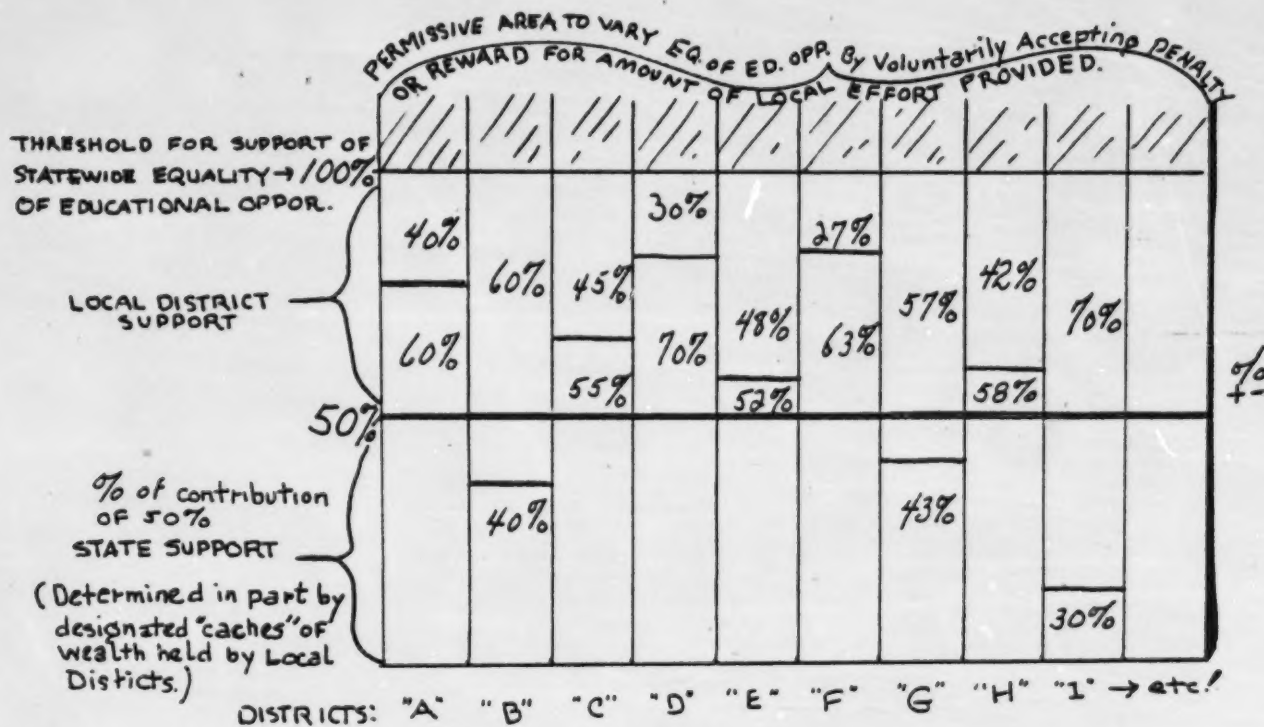
Re: The Comparison of
Local Support Table





WHEN DUAL FUNDING IS APPLIED, Local Districts' withdrawals for obtaining the Threshold of Statewide Equality of Educational Opportunity from "Local"/State Branch Depositories is regulated by the mandates of Education Article's restrictions. The amount withdrawn can be for no more and no less than that required, together with the State's Contribution from its' Central Depository, to provide a Statewide Equal Educational Opportunity for the students assigned within their respective jurisdictions. They may neither over or under withdraw since the entirety of the State's wealth designated for support of Constitutional Education is held "in trust for" ALL the beneficiaries on a Statewide basis wherever they are assigned and ordered to receive their "compulsory" education.

Fig. 2 VERTICAL COMPARISONS OF %ages OF STATE TO DISTRICT SUPPORT.

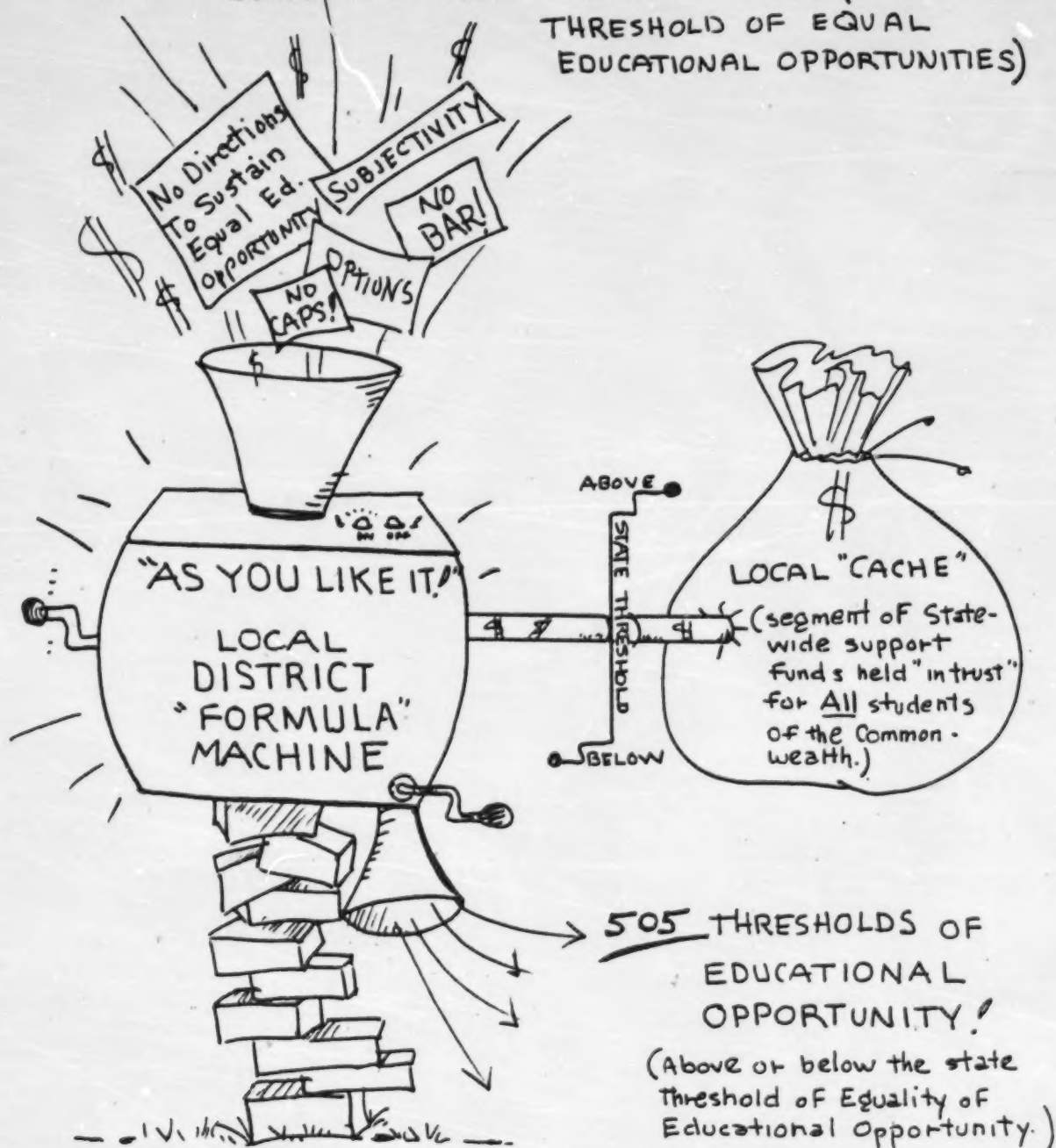


STATE'S FORMULA, AS IMPLEMENTED UNDER DUAL FUNDING "EQUALIZATION FORMULA SYSTEM, FOR PROVIDING "ITS" CONTRIBUTIVE SHARE TO SUPPORT CONSTITUTIONAL EDUCATION.

OR...

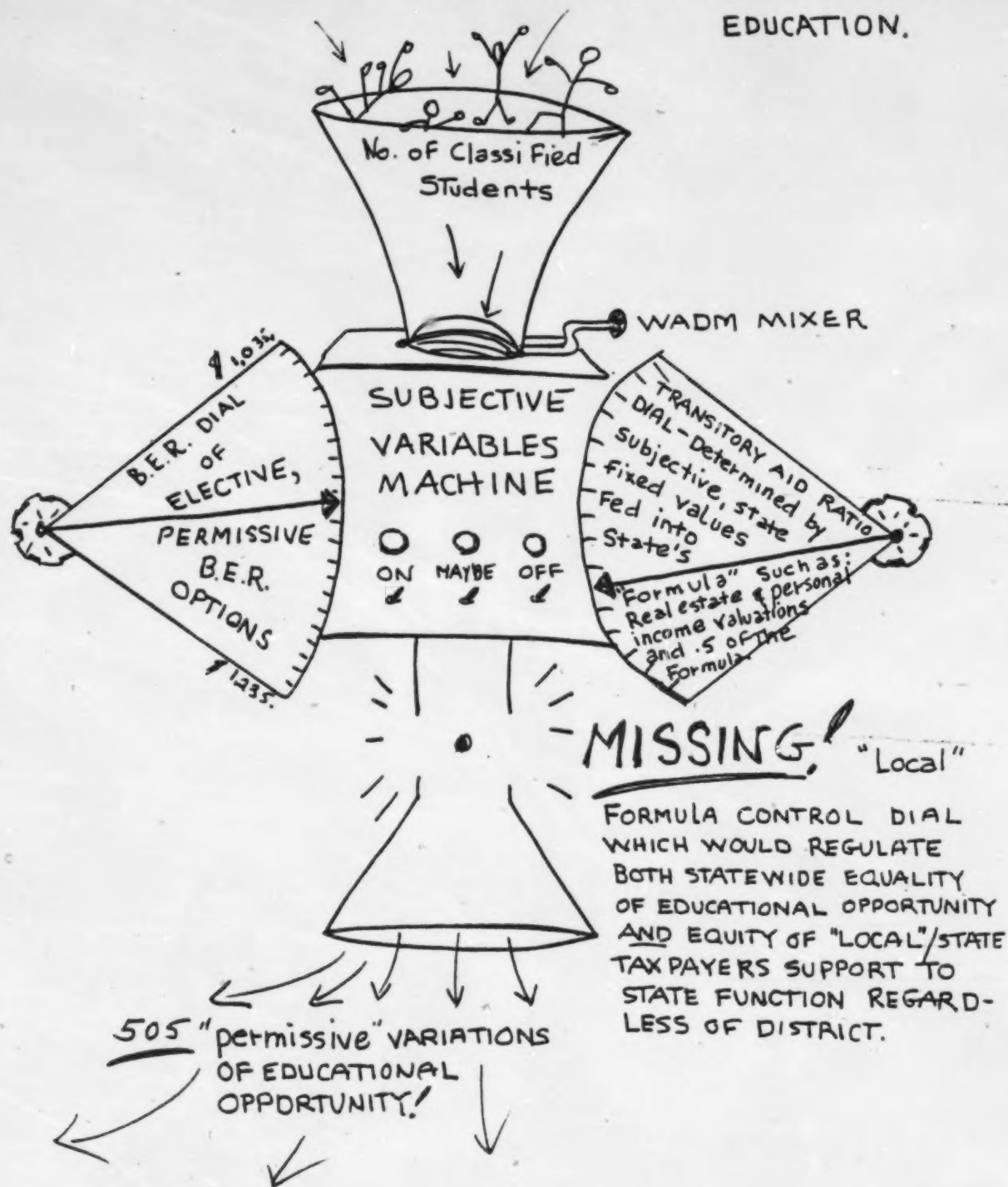
(see Fig. 3)

Fig. 3 DUAL STATE SUPPORT FORMULA FOR
CONSTITUTIONAL EDUCATION (STATE
THRESHOLD OF EQUAL
EDUCATIONAL OPPORTUNITIES)

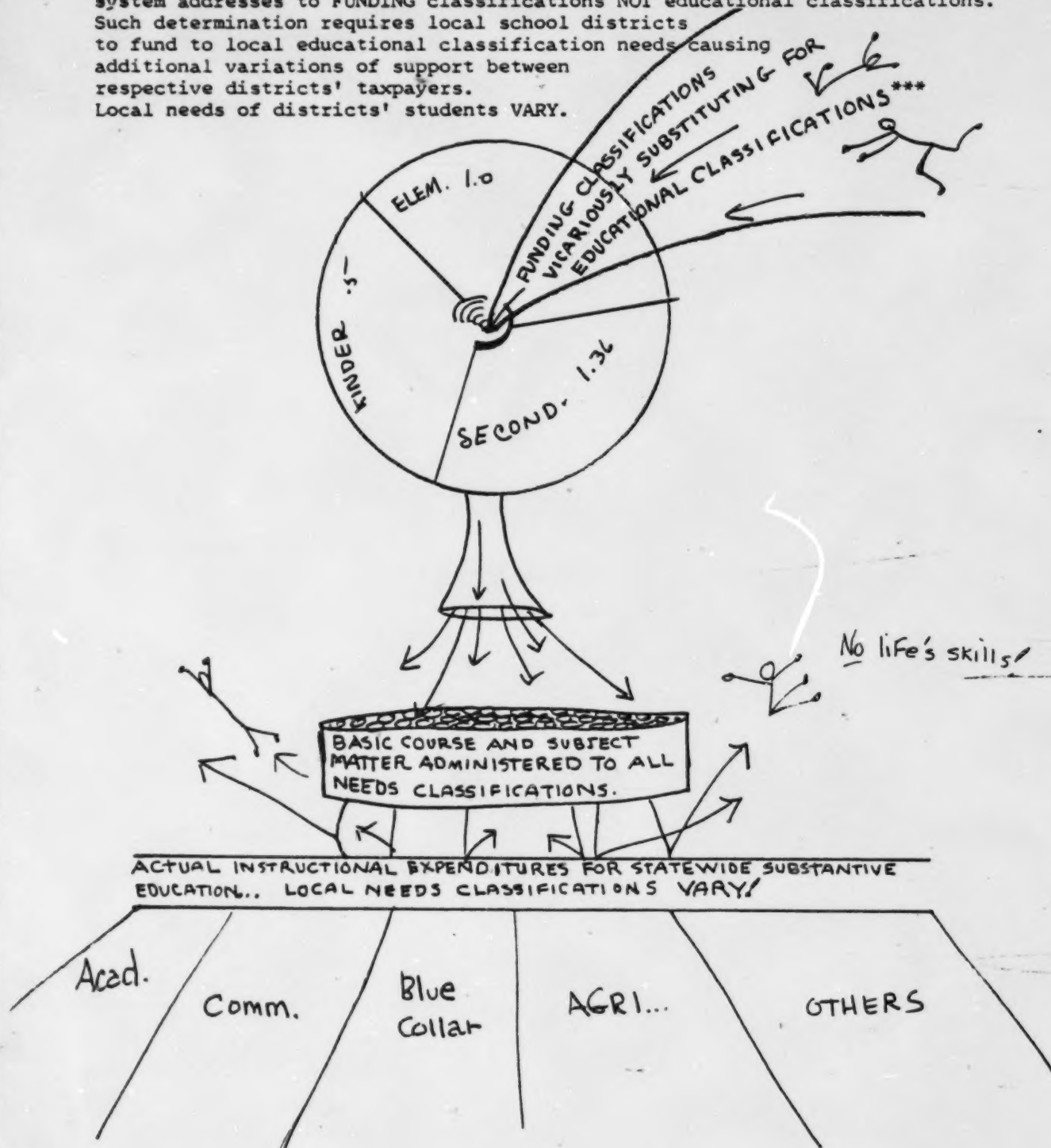


(As the "formula" is barraged by many subjectives, it is impossible to mathematically graph since it has no abstract theoretical basis.)

Fig 4 STATE "FORMULA" MACHINE FOR PROVIDING "ITS" CONTRIBUTIVE SHARE TO SUPPORT CONSTITUTIONAL EDUCATION.



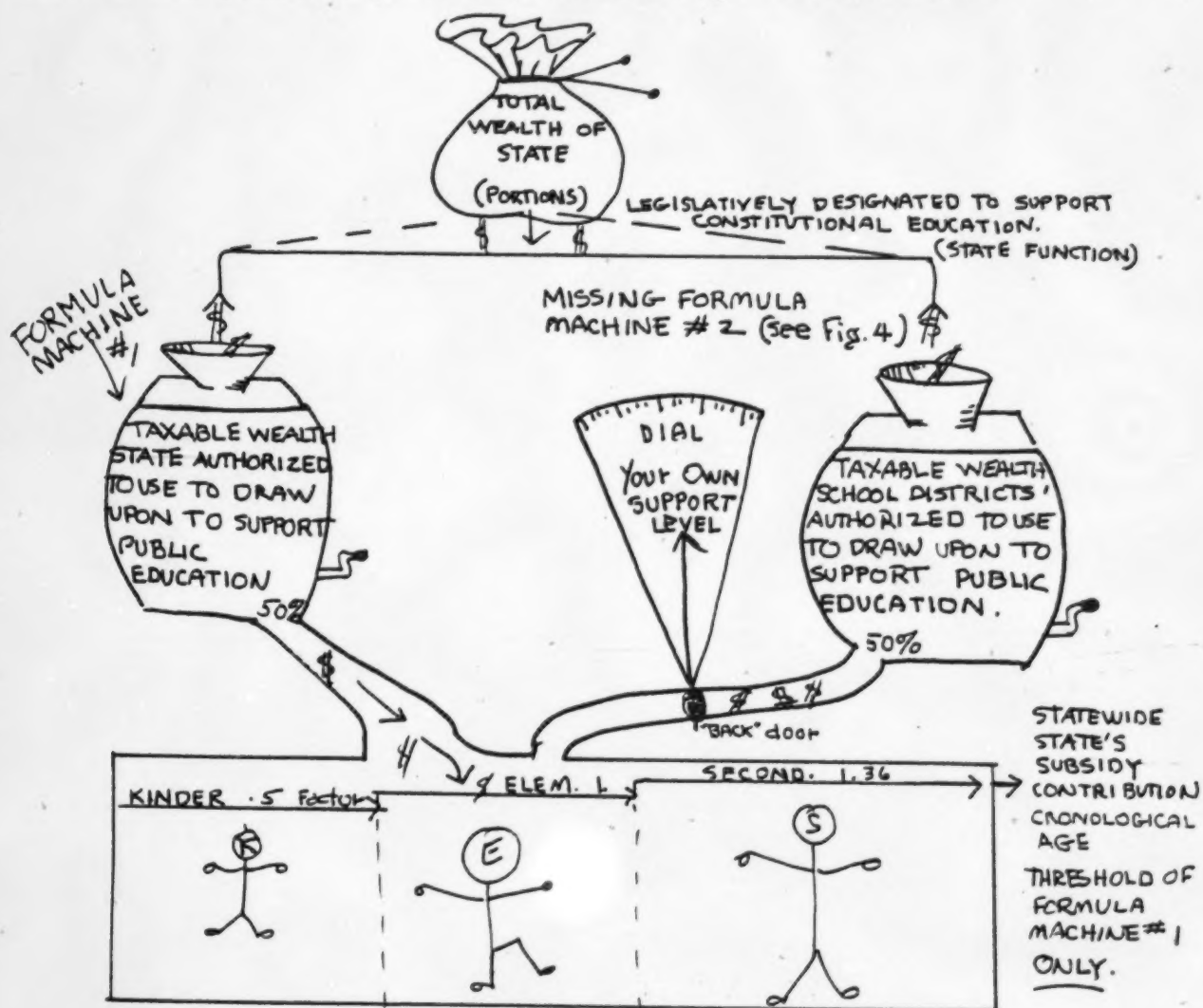
A DEMONSTRATION OF EDUCATIONAL CLASSIFICATION NEEDS WHOSE COST FACTORS ARE NOT IDENTIFIED OR RECOGNIZED BY STATE SUBSIDY CONTRIBUTIONS. The "State's formula" under the present dual funding "equalization" formula system addresses to FUNDING classifications NOT educational classifications. Such determination requires local school districts to fund to local educational classification needs causing additional variations of support between respective districts' taxpayers. Local needs of districts' students VARY.



***One "partial" exception - "Exceptional" student substantive education classification is excess cost funded by the State above appropriate "funding" classifications.

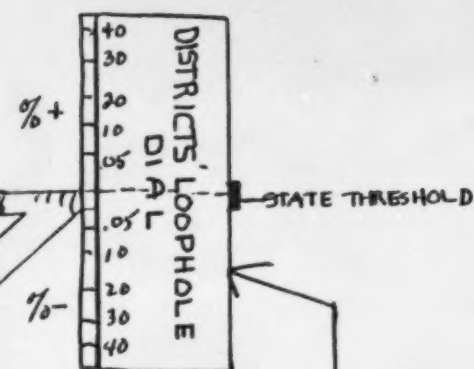
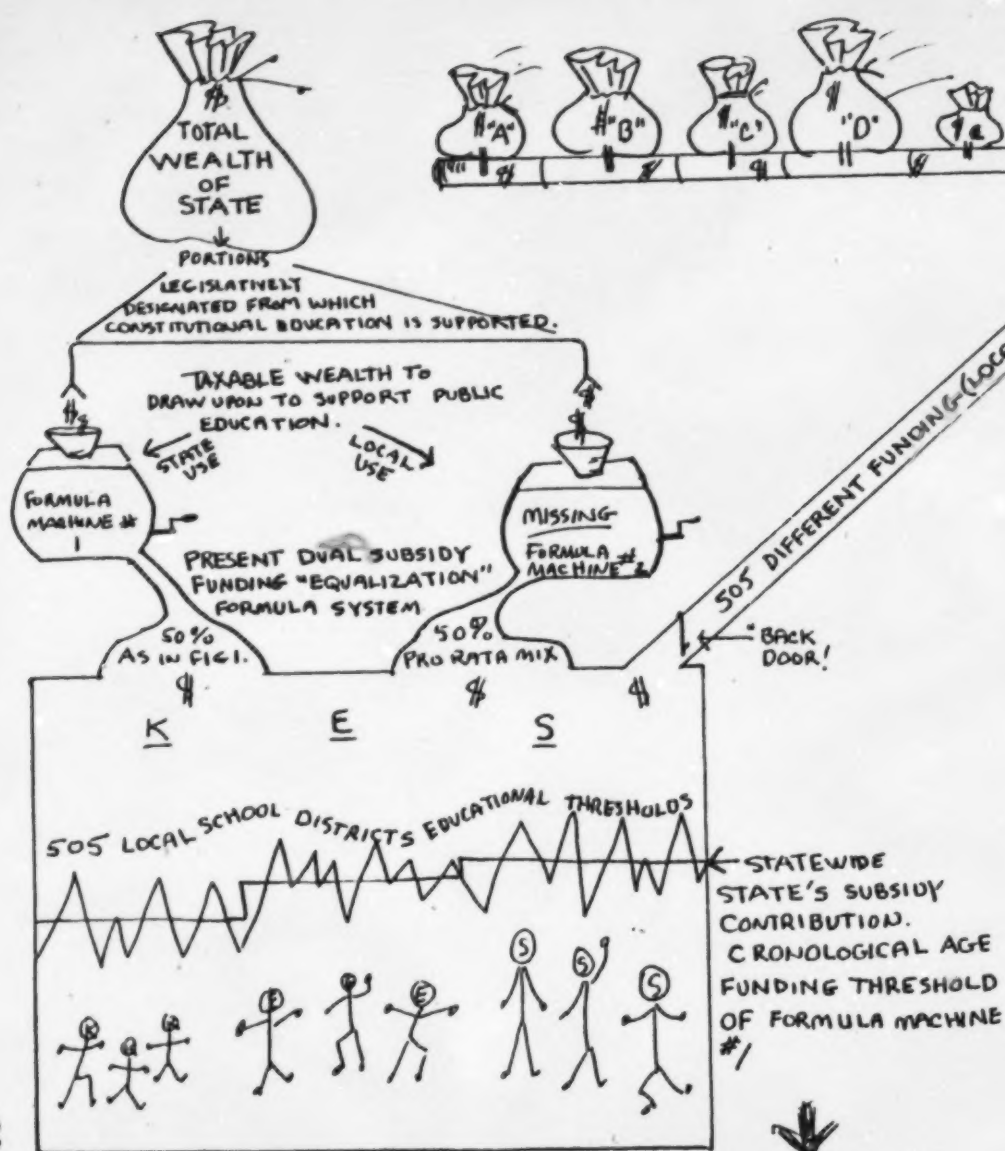
THEORETICAL OBJECTIVE: Constitution's education article mandates Statewide free, common and equitable equal substantive educational opportunity.

LEGISLATURE PRESCRIBES: (1) system to use to fund public education; (2) under dual subsidy funding 'equalization' formula system what wealth it wishes to use for support of public education and the percentage the State and "local" State sharing ratio is to be. It is presently, by statute set at 50% but appropriations set it at a lower %; (3) the 50% sharing basis will be distributed around local school districts on a pro rata ratio, the amount of which will depend in part, on the respective amount of district wealth available in back of each student compared to the State's respective tabulations.



RESULT: DUAL SUBSIDY FUNDING "EQUALIZATION" SYSTEM'S FORMULA MACHINE # 1 CONTRIBUTES STATE'S SUBSIDY FUNDS TO CHRONOLOGICAL AGE* (non educational) STUDENT CLASSIFICATIONS.

*Except, in part, for "exceptional" children



HOW TO USE DIAL:

Add or subtract from
Quality of STATEWIDE
EQUITABLE EQUALITY
OF EDUCATIONAL
OPPORTUNITY AS
YOU DESIRE.

Loophole turns LOCAL
SCHOOL DISTRICTS FROM
ADMINISTRATIVE AGENTS
OF THE LEGISLATURE INTO
INDEPENDENT "MIDDLEMEN".

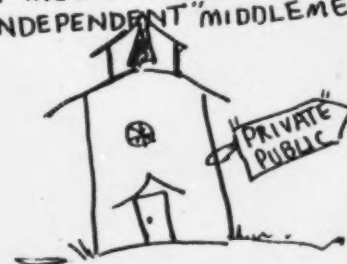


FIG 10



EVEN THOUGH:

(1.)The Constitution's education article requires Statewide equitable equal educational opportunity; and, (2) all funds designated by legislature for use,when tapped,must be held "in trust" for equitably equal use of all the State's students;

NEVERTHELESS;

1.As a result of a statutory loophole (missing formula # 2) the Commonwealth's "local"/State wealth, which is designated by the legislature to support a State system of public education, is unevenly "stockpiled" within local school districts' territorial jurisdictions. Each "stockpile" of deposits of taxable wealth is levied upon by the local school district in which it is located as if it was the exclusive cache for its independent"private" public use for altering the state's threshold for equal educational opportunity according to its desires..

2.(a) The loophole, possibly although improbably, could be appropriately removed under a dual subsidy funding "equalization" formula system by designating "local"/State wealth wherever "stockpiled" as one depository. (Note, this in effect would create two State funding sources using different legislatively designated wealths.) or- by placing a "CAP" and "BAR" on the use of the cache locally "stockpiled" in each district and used in tandem with formula # 1 machine.

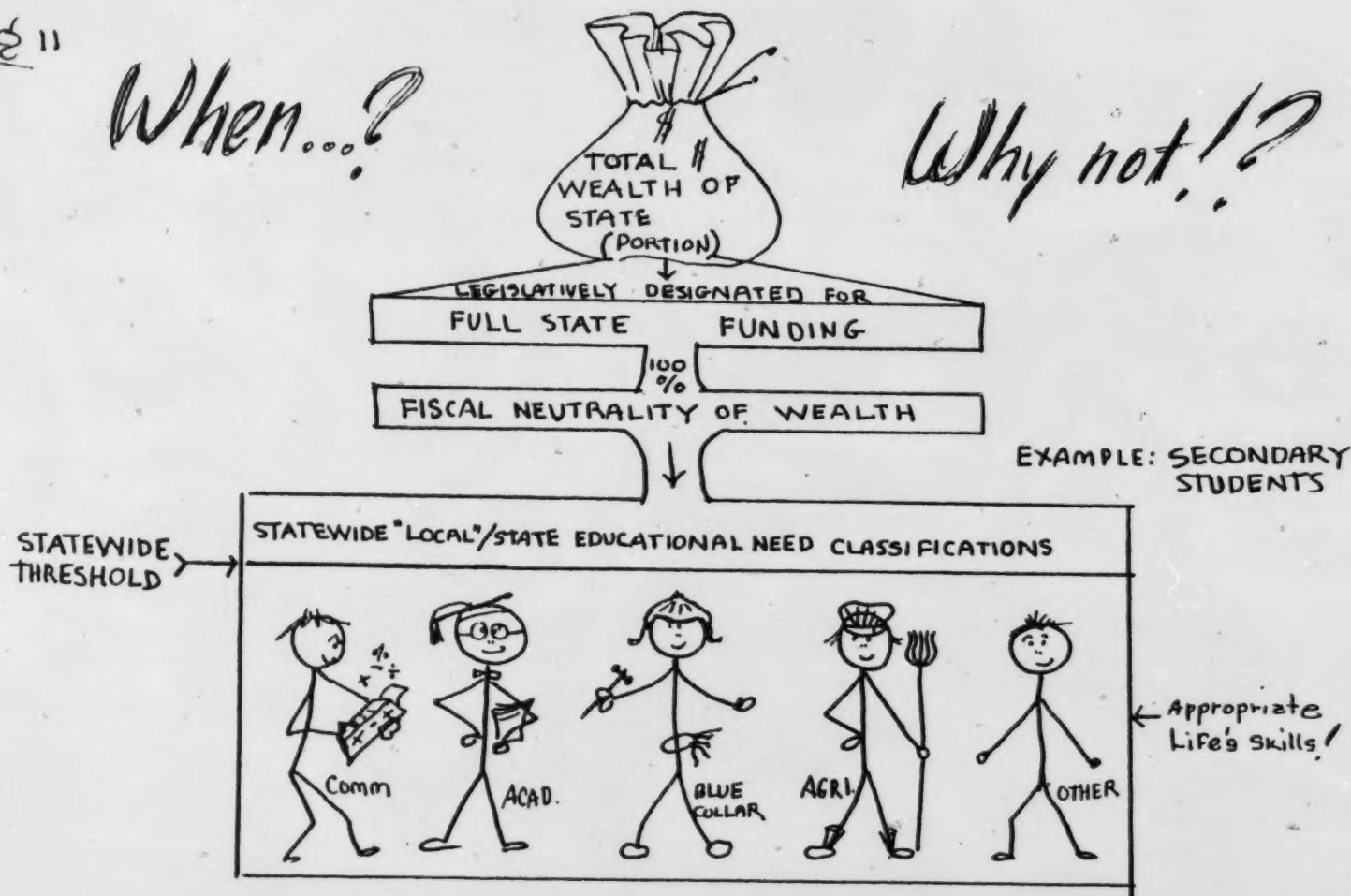
(b)The loophole, as well as the system of funding that made its existance possible, would be removed by establishing a full state funding system. Such system would create fiscal neutrality of wealth.

(c)The loophole, in effect, turns local school districts from administrative agents of the legislature into independent middlemen (between legislature and students) permitting them to dispense "private" public education causing disparity between the duties of the taxpayers owing their duty to support constitutional education as well as affecting the rights of students who are entitled to receive a Statewide equitable equal educational opportunity.

Fig 11

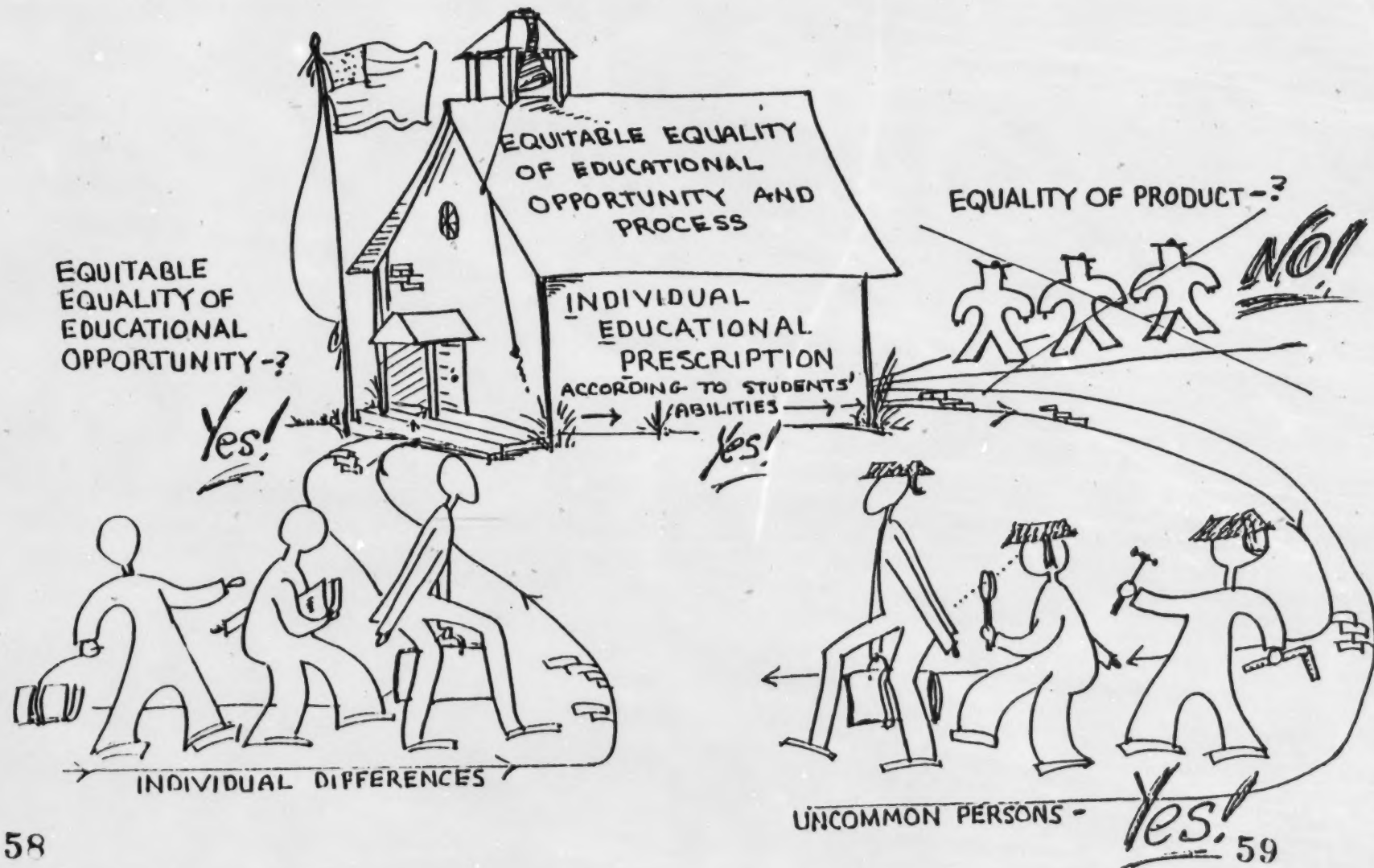
When...?

Why not!?



Result: Funds to Statewide Equitable Equality of Educational Opportunity according to Statewide "Local"/state educational needs classifications.

ACCOUNTABILITY in EDUCATION



CONSTITUTIONAL DESIGN: Thorough and Efficient educational system for dispensing statewide
Equitable Equality of Educational Opportunity.

PRESENT LEGISLATIVE BLUE PRINT: Dual subsidy funding equalization formula system.

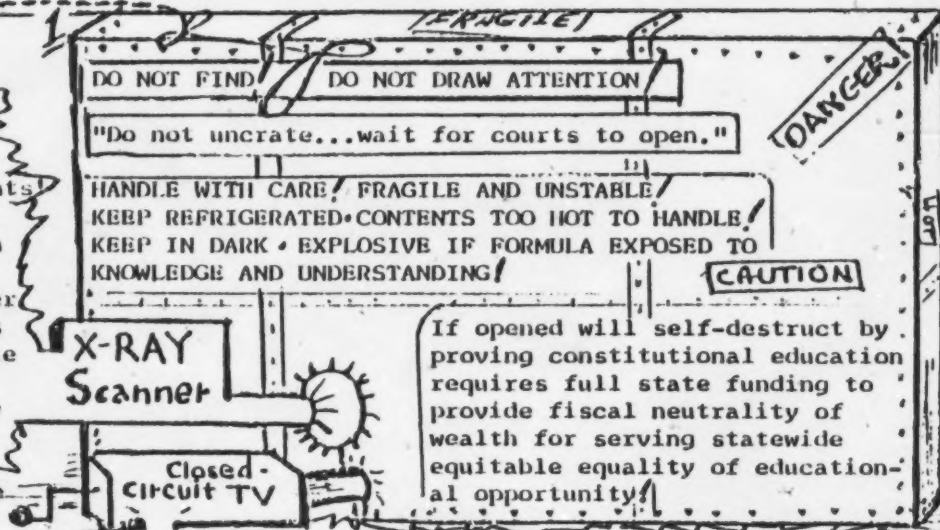
[illegible]

The case of the missing formula

FALL OUT! - Defective Formula:

2. Student: Survival in fittest district
Every district for itself (levy for whatever taxpayers ability to fund. Then fund Students' needs accordingly to local desires.)
Theory of "Evolution Probability" in Education under Dual Subsidy Funding Equalization Formula System: The margin between wealthier and poorer districts' educational offerings per student expands or contracts at the rate equivalent to the wealth disparity between them +/-, debiting or crediting for ability and desire by a local school administrative unit.)

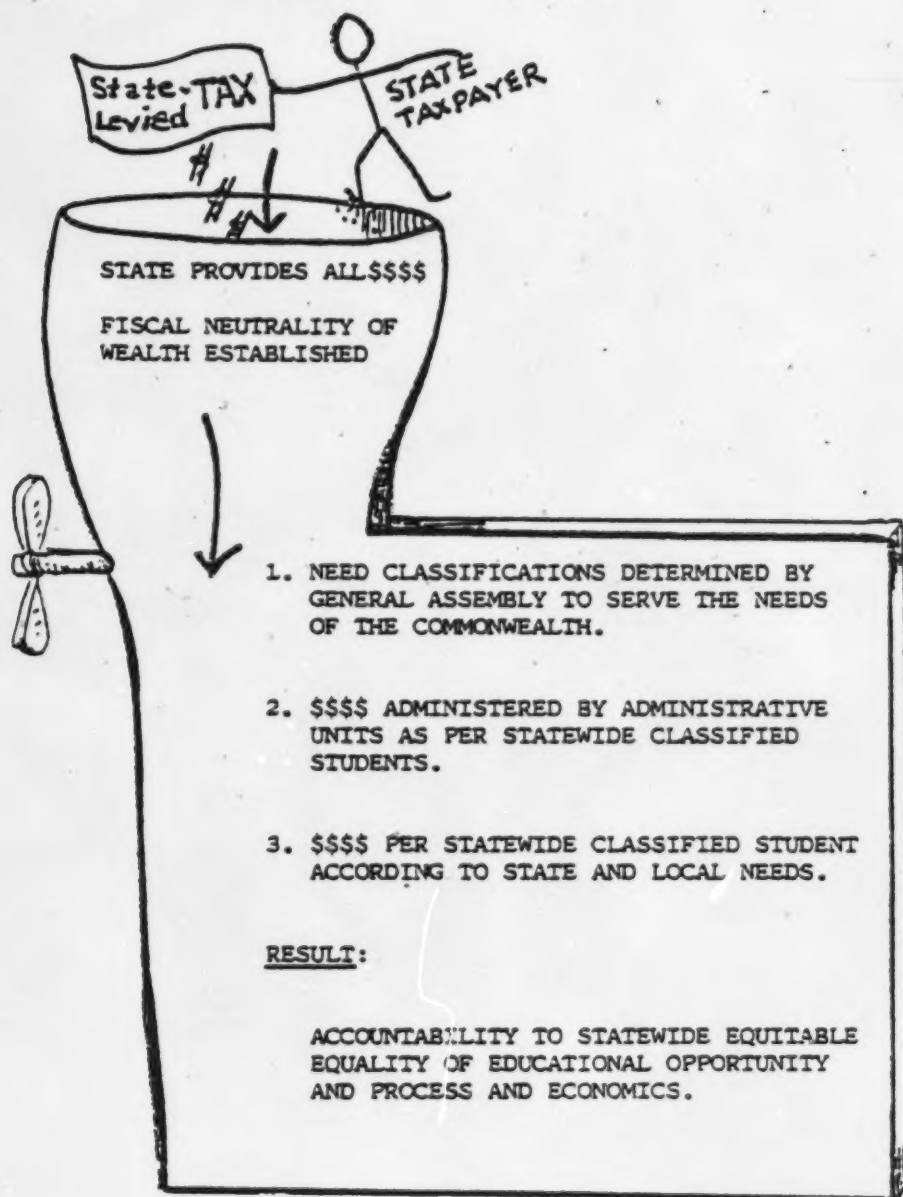
It also fails to provide both the funding formula to support a thorough and efficient educational system and the definition of one as required in order to serve the needs of the Commonwealth.



3. FOR TAXPAYERS: As this formula would show substantial wealth disparity among inter-districts and disclose inter-district taxpayers' disproportionate tax burdens for funding inter-district (statewide) student numbers and classifications, no state (local) support Formula Machine (#2) was established by statute. Instead, the Legislature, by implication, allows local school district to improvise a "do it your way" makeshift, "de facto" Formula (#2) Machine.

FOR STUDENTS: It would disclose that the state's duty to provide a statewide threshold of equitable equality of educational opportunity is abdicated by the state to a local school district's ability and desire to determine the educational threshold autonomously.

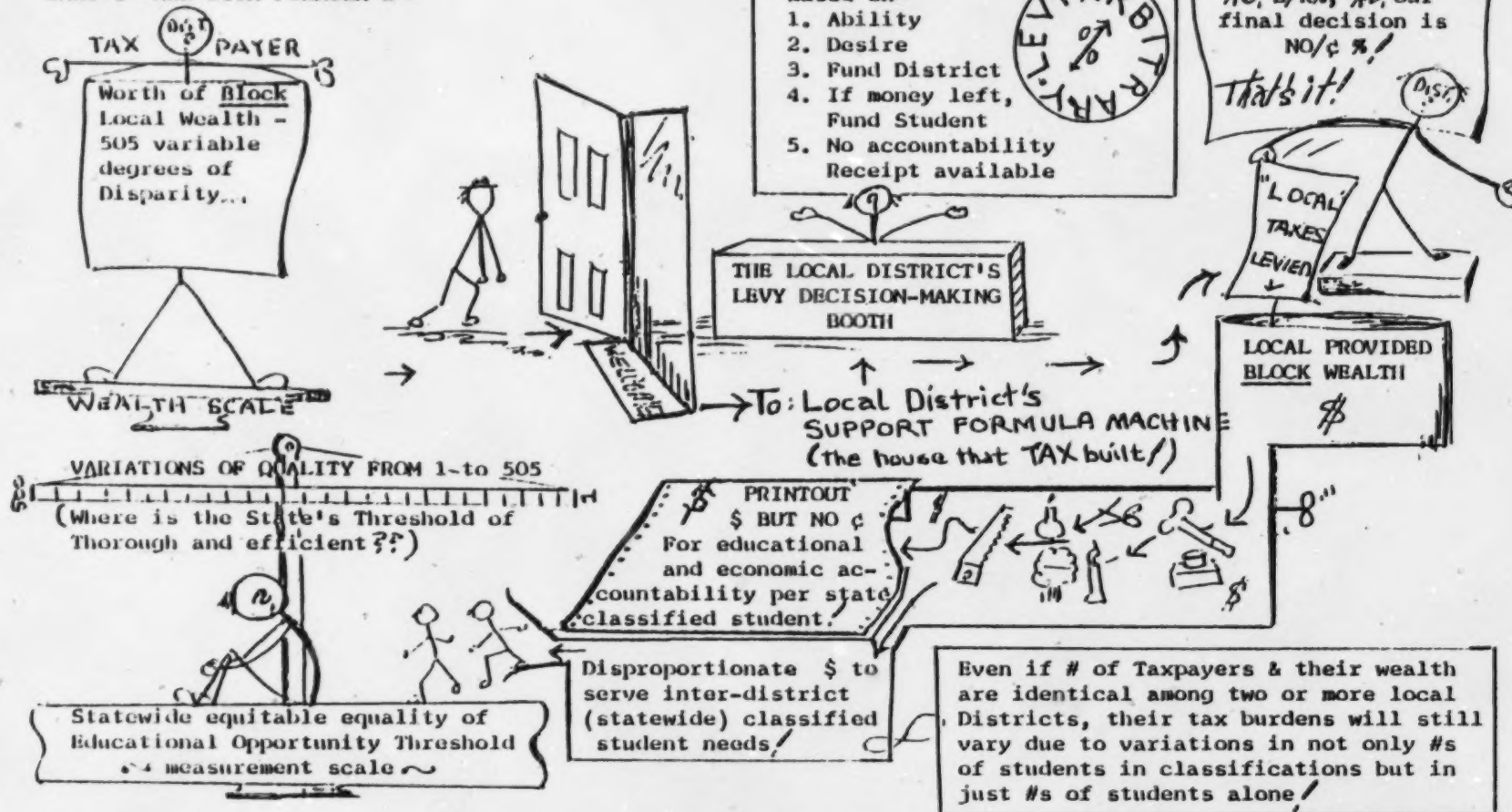
FURTHER: This formula imposes no CAP or, more importantly, no BAR for statewide achievement of Constitutional Education.



Full State Funding

Formula Machine

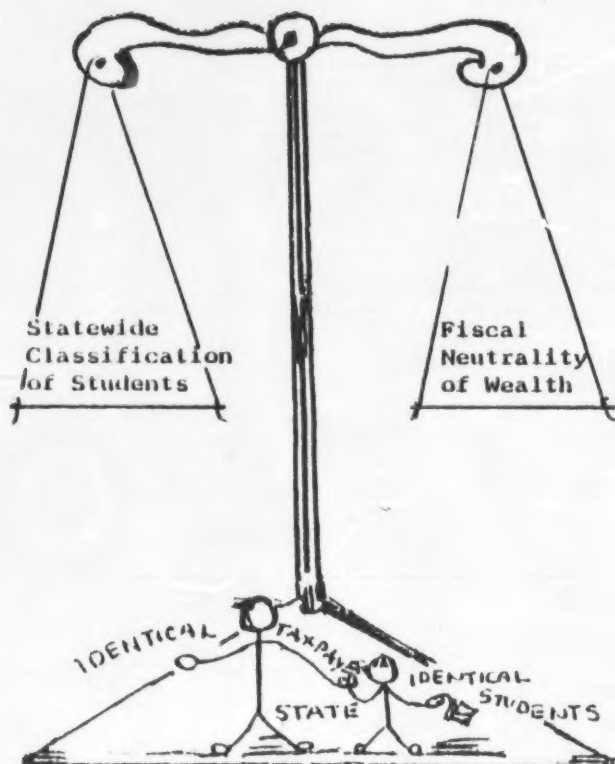
→ ON THE LOCAL SIDE....OR,
WHAT'S NEW WITH FORMULA 2!



THE CONSTITUTION'S EDUCATION ARTICLE REQUIRES ACCOUNTABILITY FOR THE MEASUREMENT TO THE STATEWIDE SUBSTANTIVE EQUITABLE EQUALITY OF EDUCATIONAL OPPORTUNITY AND PROCESS THRESHOLD WHATEVER ITS LEGISLATIVELY DETERMINED VALUE & QUALITY, WHATEVER ITS COSTS. TO AFFORD FOR ONE STUDENT IN A STATEWIDE CLASSIFICATION IS TO PROVIDE FOR ALL, WHEREVER THEIR SITUS. DOES DENIAL TO SOME WHILE PROVIDING FOR OTHERS, BECAUSE OF LOCAL DESIRES, ABILITIES, WEALTH DISPARITIES AND COSTS, MEASURE TO A JUSTIFIABLE COMPELLING GOVERNMENTAL INTEREST FOR SUCH ACTION OR INACTION, IF CAUSED BY INTENT OF STATE LAW AND/OR GOVERNMENTAL ACTION????

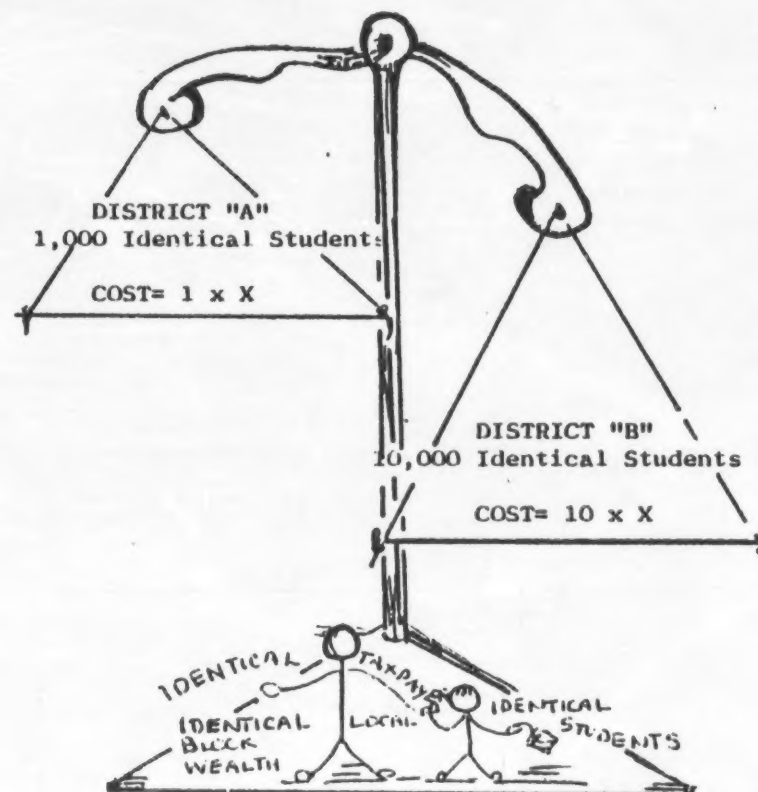
EXAMPLES...

• UNDER FULL STATE FUNDING FORMULA MACHINE



STATE CLASSIFIED TAXPAYERS SHARE EQUAL
TAX BURDEN WHEREVER THE STUDENTS' SITUS.

• UNDER FORMULA MACHINE # 2



INTER-LOCAL TAXPAYERS SHARE VERY DIFFERENT
TAX BURDENS.

Figure 1

DUAL FUNDING "EQUALIZATION" FORMULA SYSTEMS

in theory

State Subsidy

Local District effort

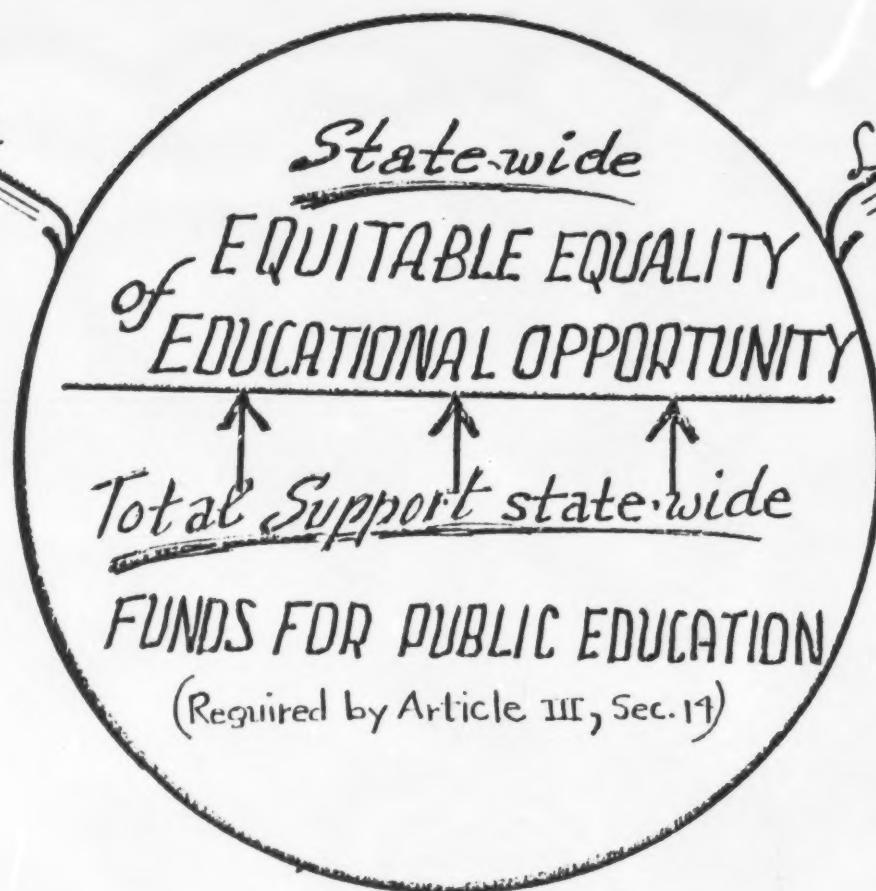
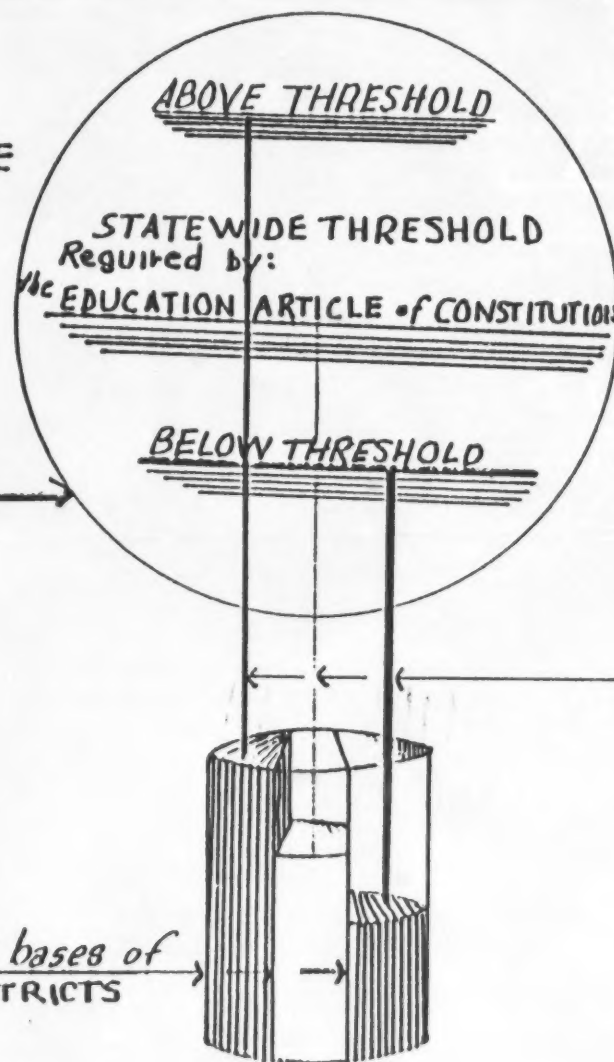


figure 2

DUAL FUNDING 'EQUALIZATION' FORMULA SYSTEMS

in practice

Variations to
STATE-WIDE EQUITABLE
EQUALITY of
EDUCATIONAL
OPPORTUNITY



Additional (open ended)
Support: Degree of
"Desire" to support
coupled with
Ability to and
Actual support by
Local districts.

71 Unequal wealth bases of
LOCAL DISTRICTS

72

Page eleven

December 13, 1979

My turn

by Joseph Flum

Basics about basic education

Education is both the bridge and channel to knowledge. However the makeup of the plasma containing its substantive and financial delivery systems is cradled in an abundance of swirling exigencies concerning the dynamics of the inter-relationships of society's and students' needs.

Today's public educational system is built upon Penn's preface to his First Frame of Government. He indicated that government should promote public education since an enlightened society promotes improvements for and among its members in perpetuity. While Pennsylvania's early Constitutions did not fully reflect his views promoting equality of educational opportunity, the present Article permits limitless offerings subject only to the legislature prescribing to the "...needs of the Commonwealth."

The Article vests in the legislature exclusive jurisdiction. This ultimate responsibility over public education requires it to provide a statewide system. Instead of sitting as its own State Board of Education to directly administer its educational program, it passed legislation which included the creation of administrative agents to administer assigned responsibilities. It has delegated regulatory authority to state administrative agents such as the State Board of Education. To *Administrative Units* (school districts) it delegated appropriate administrative responsibility over the schools and students assigned to them.

The nation's founders reserved to the states the right to provide for education. Recognizing that national interest would require it to monitor and address the quality of the states' respective perfor-



Attorney Joseph Flum...leaving the Council Rock School Board after 12 years service.

mances in education, the federal government indirectly provides for support to education.

School Districts servicing expanding noneducational assignments including transportation and social services, which accelerate the cost of education, must constantly evaluate their certificated staffing needs. As the educational system is to provide an equal opportunity, not equal results, some laws express opportunity in terms relating to the individual's capacity. Federal and state regulations require Individual Educational Prescription programming for certain classifications of students. While recognizing dispensing of appropriate and equitably equal educational opportunity requires equitable allocations of funds, questions are being asked if equal equities (e.g. IEPs; more than 180 days of schooling—or according to the student's proven needs) to achieve an equal opportunity are not being denied to the "regular" student.

The chipping process to provide equal educational opportunity now includes weighted factors termed ap-

propriate education and equitably equal opportunity education. Will the process of balancing the equities to determine whether offering schooling for proven need beyond 180 days within one classification now require offering an equal opportunity with or without proven need to all classifications of students beyond 180 days? promote year-around schooling? While the State's educational delivery system must address to statewide student classifications, thus prohibiting spot zoning, statutes and regulations should be drawn broadly enough to address local needs.

Costwise, if only the tip of the iceberg is showing, its melting will not only accent the flaws in the funding system but could drown the local taxpayer in the process. Pennsylvania funds its educational program by using a dual subsidy funding equalization formula system. Attacks on the system grow. In part, the formula system passively permits the costs of underfunded state and federal mandates to be inequitably picked up at the local taxpayers' expense, permissively allows various de-

Attorney Joseph Flum lives in his native Newtown, having just completed a second six-year term on the Council Rock School Board of which he was president. He has studied education in extensive travels throughout the world, was chairman of the Bucks County School Directors Legislative Council and was a member of numerous state education committees.

Basics about basic education

December 13, 1979 *The ADVANCE of Bucks County*

gresses of local desire to support education, and because the State uses the results of averaged rather than equalized market value of taxable real estate in its subsidy formula, permits the state's subsidy to be *theoretically* rather than actually based on a per pupil basis. It also causes unreasonable inequities in the ability of some districts to properly fund education due to unequal *local* available wealth bases to levy

(Continued from page 11)

upon. Its effect inequitably burdens local taxpayers and denies students an equal educational opportunity within the at-large community of Pennsylvania.

The illusion of local control over the educational program ends abruptly when the districts defying proper statutory, regulatory or court orders could be monetarily penalized. Injured parties can recover substantial money damages when districts deprive them of their rights. The "innocent" taxpayer is rocked with both tabs. The role of school directors includes monitoring, at the local level, the State's prescribed educational program, and acting as guardian of the rights of pupils

assigned within their jurisdiction. Use of processes providing a conduit to test whether the state and/or district is/are violating the complainant's rights is increasing.

As the legislature's constitutional accountability to provide for both its program and financing is unalterable, transfer of the "power" to regulate the state's educational program from one state agency to another to reduce costs is meaningless. Until regulations are changed by the legislature, they stand as law and affirm their funding assignments.

Sometimes the beacon of light needs a new electric bulb. Thus, as statutory failure to address these issues continues to invite court challenges, in November 1973 the Governor's Citizens Commission report on Basic Education advised a study into the use of full state funding for the State's educational delivery system. Congress in 1978 ordered a study into financing elementary and secondary education. Governor Thornburgh's Tax Commission will examine funding for education.

"Education" must be redefined or there must be a recognition that school districts, since they are required to dispense specific social services, are not just for basic education anymore. If the legislature does not intend to directly administer and fund its educational program, then since the program prescription is already directed by regulatory agencies, if higher responsible levels of government are to be accountable (which includes the requirement of addressing to local need and

concerns) should not the duty to support be merged with that right to prescribe? If so, should not the power be placed with elected rather than appointed officials?

In adhering to the principle that education promotes improvement for and among all members of its society wherever they are or later may be, the "bridge" at Council Rock recognizes its responsibility to the educational system and to the part of the Commonwealth community it serves. There is a need to make sure that the light seen at the end of the tunnel is not that which is connected to the front of an oncoming freight train—for the most important product of society is its children. It is they who assure the future!